# ENVIRONMENTAL APPEAL BOARD

## ANNUAL REPORT

*January 1, 2000 – December 31, 2000*

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# Environmental Appeal Board Annual Report 2000

## Message from the Chair

With our entry into the new millennium, the Environmental Appeal Board (Board) has encountered changes and challenges on various fronts. The Board has responded to those challenges successfully and continues to maintain its commitment to achieving the goals and objectives it has set for the year.

Dr. Roy Crowther was a fortunate addition to the Board this year. Dr. Crowther brings a vast array of experience in the fields of aquatic ecology, environmental resource planning, and water quality. Dr. Crowther's knowledge and experience extends the Board's collective expertise and knowledge, and has contributed to the quality of the Board's decisions. In addition to the appointment of a new Board member, two new staff members joined the Board this year. Mr. Gilbert Van Nes is the Board's General Counsel and Settlement Officer, and Ms. Sheryl Kozyniak became the Executive Director and Registrar of Appeals. The addition of Mr. Van Nes' position to the Board is a reflection of the ever increasing complexity and volume of appeals that the Board receives. Ms. Kozyniak joins the Board following the departure of Ms. Joanne Taylor, the Board's outgoing Executive Director and Registrar.

The Board continues to receive a high volume of appeals concerning the *Water Act*. Proclaimed in 1999, the *Water Act* provides an avenue of appeal to industry and the public that did not previously exist. As a result, the Board is now dealing with appeals concerning the exploration for groundwater and the issuance of preliminary certificates and licenses for the diversion of water. As development and other pressures continue to impact the demand for water in Alberta, the Board realizes its responsibility to provide fair and impartial hearings to address these concerns.

The Board is ever mindful of its goal to effectively balance the interests of the public and industry in the appeal process. It is essential for the Board to work with all stakeholders to ensure that environmental and economic factors are considered. As the Board is acutely aware of the impact that its decisions can have on the environment, industry, and communities throughout the province, balancing these interests is critical. In this regard, the Board continues to ensure that the recommendations made to the Minister will incorporate this balanced approach. I am pleased to advise that the Board has established a reputation as a leader in Canada for public tribunals. Many of the Board's decisions have been published in the *Canadian Environmental Law Reports* and are cited regularly.

Our goal is to provide the efficient and timely settlement of appeals. Mediation continues to be the desired method employed by the Board to adjudicate issues in a flexible and less adversarial forum. In November of this year, we hosted a 3-day conference by the Consensus Building Institute of Harvard University on interest-based negotiation. The event, co-sponsored by the federal government, was attended by public officials, aboriginal groups, and those interested in learning more about mediation and its role in settling disputes between parties. The Board is proud of its mediation program and will continue to use this practice as a means to resolve appeals in an effective and efficient manner.

In looking back upon this past year, I am pleased with the hard work and efforts of both the Board members and the Board staff in making the year a success. I look forward to the new challenges ahead as the Board continues in its role as an instrument of environmental stewardship while at the same time, promoting economic prosperity for all Albertans. Once again, I feel privileged to occupy my role as Chair on the Board and pledge to strive for excellence in 2001.

*William A. Tilleman, Q.C.*

## Introduction

This 2000 Annual Report contains an explanation of the purpose, structure, and function of the Environmental Appeal Board. It includes an explanation of how the appeal process is conducted, statistics on appeals filed, and a financial overview. It also describes the principles under which the Board operates and the strategies it employs to achieve its objectives.

## Background

The Alberta Government initiated the task of restructuring environmental legislation in Alberta in 1988 by asking the Review Panel on Environmental Law Enforcement to make recommendations to strengthen the enforcement of Alberta's environmental statutes. The initiative resulted in the June 1990 release of a discussion draft of the *Environmental Protection and Enhancement Act* (*EPEA*), released by the Honourable Ralph Klein, then Minister of Environment. The draft contained several sections establishing "boards of review" (similar to those under the *Canadian Environmental Protection Act*) to hear appeals on certain specified matters.

In the fall of 1990, the government appointed the Environmental Legislation Review Panel to conduct public meetings throughout the province to gather written and oral submissions. During the public meetings, the Panel recognized the need for a balance between public concerns over the environmental impacts associated with the issuance of approvals to conduct environmentally significant industrial projects, and the concerns of regulated industries that they were being treated unfairly by government regulators or being required to meet government regulations that were too stringent. The Panel submitted a report to government in January 1991, confirming support for the establishment of an independent appeal process.

The report was redrafted and introduced in the Legislative Assembly as Bill 53 in June of 1991, changing "boards of review" to "Environmental Appeal Board". In May of 1992, following further public input, the Act was re-introduced as Bill 23 and received third reading and Royal Assent on June 26, 1992. On September 1, 1993, the *Environmental Protection and Enhancement Act* was proclaimed, empowering the Environmental Appeal Board. In 1995, the scope of the Board's mandate was expanded with the implementation of the *Government Organization Act*, Schedule 5, section 6, under which the Board can hear appeals of enforcement orders relating to Restricted Development Areas.

The Board's scope of review was further expanded in January 1999 with the coming into force of the *Water Act* which contained a mechanism for appealing water related matters to the Board. This has increased the Board's workload and function considerably.

# Environmental Appeal Board Annual Report 2000

## Overview

## Purpose of the Board

The Environmental Appeal Board provides Alberta citizens and corporations with a statutory vehicle to appeal certain decisions made by the Department of Environment regarding a range of environmental issues stemming from the approval of activities that have environmental consequences. The Board offers those persons who are directly affected by such activities an opportunity to have their concerns heard. As such, the Board plays an important quasi-judicial role in ensuring the protection, enhancement, and wise management of the environment. In this role, the Board is committed to taking a proactive stance in the fair, impartial, and efficient resolution of all matters before it.

## Organization

The Board is in a unique position in relation to the Department of Environment and the Minister of Environment. For reasons of fiscal policy, the Board is under the purview of the Minister although it reviews and hears appeals of decisions made by decision-makers within the Department of Environment. However, in order to maintain its adjudicative objectivity, the Board operates at arms-length from the Department of Environment, allowing it to maintain a necessary degree of independence. However, for budgetary reasons and for the purpose of providing the Minister with its decisions and reports, and notwithstanding the Board's effort to balance environmental and economic interests, the Board remains aligned with the operations and goals of the Ministry of Environment.

The Board is comprised of appointed Board members who are supported by the Board staff. The Board members are appointed by Cabinet based on their background and expertise in environmental or policy fields. Legal and research staff support the Board; staff are employed by the Alberta Government, who facilitate the Board's operations and adjudication. The fundamental premise of the Board's operation is that the staff embrace the fiscal, environmental, and human resource goals of both the government and the Board. This dual purpose is also present in the Board as it approaches each appeal with an impartial and unbiased view while remaining cognizant of the operational goals of the Ministry of the Environment. The Board's organizational structure has helped to ensure efficiency and productivity without compromising its purpose and integrity. Appendix A provides an illustration of the Board Organization Chart.

## Board Membership

Board members are appointed by Cabinet as per section 83(1) of *EPEA*. All appointments are non-partisan and based on merit, administrative experience, knowledge of environmental issues, and academic, technical, and professional expertise. All members sit on the Board part-time. They are paid on a *per-diem* basis and reimbursed for their expenses.

The current Board consists of the Chair and eight members:

**Chair**: Dr. William A. Tilleman, Q.C., a Calgary environmental lawyer and adjunct Professor at the University of Calgary, Faculty of Law. Dr. Tilleman holds a J.S.D. from Columbia University, New York, and has acted for government and private industry and counselled a variety of Canadian administrative boards.

**Vice-Chair**: Dr. John P. Ogilvie, holds a Ph.D. in metallurgy with a broad industrial experience throughout North America.

**Member**: Dr. M. Anne Naeth, a professional biologist and agrologist, and a Professor in the Department of Renewable Resources, Faculty of Agriculture, Forestry and Home Economics at the University of Alberta.

**Member**: Mr. Ron V. Peiluck, an active consultant to industry, possesses a biology background, and holds a Master's degree in land and water resource development.

**Member**: Dr. Steve E. Hrudey, a Professor with the Environmental Health Program, Faculty of Medicine at the University of Alberta, with a risk management and environmental health background, holds a Ph.D. in Public Health Engineering.

**Member**: Dr. Ted W. Best, an active consultant with a background that includes a Ph.D. in Geology and the Advanced Management Program at Harvard Business School.

**Member**: Dr. Curt Vos, a physician in family practice and industrial medicine, and an active member of numerous community organizations such as the Strathcona Chamber of Commerce, the Strathcona Library Board, and the Strathcona Care Centre.

**Member**: Ms. Patricia Cross, a limnologist with 20 years experience and a MSc in Zoology from the University of Toronto. Ms. Cross has experience with water quality, empirical modelling, and water resource planning across Alberta. (Ms. Cross left the Board in March 2000.)

**Member**: Dr. Roy A. Crowther, an aquatic ecologist holding a Ph.D from the University of Calgary and 20 years of experience as a consultant and advisor. Dr. Crowther's primary areas of expertise are in project management, co-ordination of multi-disciplinary environmental teams, preparation of environmental impact assessments, and water resource management. (Dr. Crowther joined the Board in August 2000.)

## Staff and Office Accommodation

This year the Board increased its support staff in order to increase efficiency and to deal with an ever growing number of appeals. The Board has six full-time staff members including an Executive Director and Registrar of Appeals, an Office Administrator, and two administrative support staff. This year the Board added the position of a full-time General Counsel and Settlement Officer, which will improve the efficiency and quality of the Board's decisions. Further temporary administrative assistance and contract work is retained as required. Staff provide full administrative support to the Board, respond to public, government, and industry queries, and participate in presentations and consultations on behalf of the Board. The staff also ensures that documents regarding Board processes and jurisprudence are easily accessible and written in a manner that will be clearly understood.

The Board's office is located at:

306 Peace Hills Trust Tower
10011 – 109 Street
Edmonton, AB T5J 3S8
Phone: (780) 427-6207
Fax: (780) 427-4693
Website: www.gov.ab.ca/eab/

This is a new location for the Board that provides adequate space for holding hearings and mediations and is necessary to meet the Board's ever increasing work load. The new facilities have a general hearing room which can seat approximately 60 people, as well as break out rooms for independent consultation and a conference room for in-house mediations. These facilities offer the space and functionality to allow the Board to meet its mission and purpose efficiently and effectively.

## Mission Statement

The Environmental Appeal Board will advance the protection, enhancement and wise use of Alberta's environment by providing fair, impartial, and efficient resolution of all matters before it.

## Operating Principles

***Ecosystem Sustainability***
The Board believes that a healthy environment is essential to the integrity of ecosystems and human health and to the well-being of society.

***Sustainable Development***
The Board hears and processes appeals in a fair and effective manner striving to ensure the wise use of Alberta's renewable resources with the goal that future generations may benefit from them.

***Informed Decision-Making***
The Board attempts to hear and process appeals on the basis of relevant scientific, technological, and environmental information so that it may make a fully informed decision.

***Public Involvement***
The Board ensures that information on its mandate, rules, and regulations is freely accessible. The Board provides Albertans with the opportunity to become active participants in the appeal and hearing processes through creative processes such as mediation.

***Shared Responsibility***
The Board shares the responsibility of managing Alberta's renewable resources by providing Albertans with the opportunity to have a voice through appeal procedures.

***Customer Service***
The Board is dedicated to providing excellent service to all Albertans.

## Core Business

The Board's core business is to hear appeals from appellants and affected parties on decisions regarding environmental approvals, water related approvals, enforcement actions, reclamation certificates, and other matters. The goals of the Board are linked to the core businesses and goals of the Ministry of Environment and the core businesses of the Alberta Government: people, prosperity, and preservation.

Social (people), economic (prosperity), and environmental (preservation) effects of major resource development are scrutinized through the Board review process to ensure that Alberta's renewable resources are sustained, the high quality of Alberta's environment is maintained, and resource development contributes to the economy (prosperity).

The Board continues to work to find effective ways of reducing its expenditures while maintaining quality services. We continue to look for ways to conduct our business more efficiently and effectively.

The Board is committed to contributing to the sustainable development of Alberta's natural resources for the benefit of Albertans today and in the future.

## General Objectives

The following objectives reflect the Board's philosophy in operating its core business and its commitment to its operating principles:

1. strive for correctness and precision in decision-making;
2. maintain fair and simple procedures;
3. give priority to the substance of an appeal rather than its form;
4. consider appeals as expeditiously as possible;
5. ensure the availability of Board decisions and the Board's Rules of Practice to parties that appear before the Board and other interested Albertans;
6. minimize the time needed to process appeals;
7. focus on dispute resolution options in mediation meetings and monitor their success;
8. recommend sound and well-documented legislative changes;
9. develop closer contacts with various interest groups in order to keep abreast of industry, public, and government concerns and proposals for change;
10. formalize the long-range planning and budget review process for the Board;
11. achieve fairness and unbiased results, having regard to the purposes of *EPEA* and the interests of all parties to an appeal; and
12. make efficient and productive use of the Board's resources in meeting the needs of the parties.

## Strategies

The Environmental Appeal Board employs the following strategies to achieve its objectives:

1. Where possible use written rather than public hearings in order to minimize costs.

2. Use alternative dispute resolution strategies to facilitate amenable resolution of appeals and monitor the success that the use of such strategies achieves.

3. Train Board members and staff to mediate those appeals that are amenable to settlement.

4. Use a single Board member for mediation meetings. The Board encourages the use of alternative dispute resolution mechanisms, such as settlement conferences, wherever possible in order to reduce the costs associated with an appeal.

5. Utilize three-person appeal panels for hearings, organized where possible on a regional basis and utilizing Board members' expertise, to minimize travel and meeting costs. Use single person panels for determining procedural matters where possible.

6. Increase the availability of Board decisions, rules, and procedures to parties that appear before the Board so as to achieve greater understanding of the Board's procedures, reduce unnecessary appeals, and generate informed suggestions for future change.

7. Maintain Board rules and procedures in an accessible manner to ensure consistency of application, to reduce time taken in processing appeals, and to focus Board decisions on providing procedural fairness.

8. Consolidate individual appeals where possible.

9. Provide access to the Board for all parties (businesses, government, and the public), including telephone access for out-of-town parties and web site.

10. Maintain Board documents, rules, and procedures in an updated form, eliminating inaccurate or outdated information and providing both Board staff and Board clientele easy access to the records of outstanding appeals.

11. Monitor changes to the *EPEA*, the *Water Act*, the *Government Organization Act*, and the regulations which constitute and govern the Board.

12. Review as necessary the Board's staffing requirements.

13. Operate the Board within its budget.

## The Acts and Regulations

The Board operates consistent with and subject to the purposes of Part 3 of the *Environmental Protection and Enhancement Act*, Part 9 of the *Water Act*, Schedule 5 of the *Government Organization Act*, the *Environmental Appeal Board Regulation* (Alta. Reg. 114/93), and the *Environmental Protection and Enhancement (Miscellaneous) Regulation* (Alta. Reg. 118/93). The Board has statutory authority to hear

appeals of administrative decisions made with respect to a variety of matters regulated by the *EPEA* and the *Water Act*.

The Board has the power to make recommendations on matters brought before it to the Minister of Environment, with the Minister making the final decision. On matters relating to standing, timeliness of filing, stays, costs, requests for confidentiality, administrative penalties, and other preliminary matters, the Board is authorized as the final decision maker. In carrying out its functions, the Board has all the powers of a commissioner under the *Public Inquiries Act*, including the right to retain experts to assist with matters before the Board and to compel persons and evidence to be brought before the Board. Although it is not subject to the provisions of the *Administrative Procedures Act*, the Board has an obligation to operate in accordance with the principles of natural justice. Consistent with normal common law practice, the Board does not replace or eliminate the right of Albertans to use civil remedies available in the courts.

## Rules of Practice and Regulatory Reform

The Board's Rules of Practice contain an explanation of the procedures involved in appealing a decision to the Board. The Rules of Practice are designed to be a clear and concise explanation of the processes and procedures adopted by the Board. This document is updated periodically by means of stakeholder consultation, (most recently conducted in 1999) whereby parties with an interest in the Board, either as Appellants, environmental groups, industry, or government, are given an opportunity to suggest changes to the Board's Rules of Practice document.

## The Appeal Process

The following overview provides a brief summary of the Board's appeal process. The Board ensures all information about the Board is freely accessible and understandable to aid the public in determining whether to file a Notice of Appeal and how to conduct an appeal. This facilitates awareness of appeal requirements and procedures, simplifying the appeal application process to ensure consistency in each application. Detailed information about the Board, including its Rules of Practice, the legislation under which it is governed, its procedures, Decisions, Report and Recommendations, Business Plan, and Annual Report are available from the Board office or the Board's web site. As well, the Board's staff are available to answer questions about the Board's process and procedures. Appendix B outlines the Board's appeal process.

When a Notice of Appeal is brought before the Board, the Board deals with it in one of two ways. First, it looks for ways to resolve conflict that are alternative to the formal, lengthy, and costly process of a hearing. The Board employs Alternative Dispute Resolution (ADR) mechanisms, such as mediation or settlement conferencing, to facilitate resolution of the issues within the Notice of Appeal at an early stage. Second, if the ADR mechanism is unsuccessful or deemed inappropriate for the resolution of the appeal, a panel of one to three Board members hears the appeal formally.

## Mediation

The Board may, on its own initiative or at the request of any of the parties to the appeal, schedule one or more mediation meetings to facilitate the resolution of the appeal or to determine any of the procedural matters set out in the Board's Regulation. Parties are expected to come to the mediation meeting fully prepared for a useful discussion of all issues involved in the appeal, both procedural and substantive, and be authorized to negotiate and make binding decisions regarding these issues.

## Advantages of Alternative Dispute Resolution

Environmental tribunals encourage the use of Alternative Dispute Resolution (ADR) to resolve conflicts because environmental disputes that lead to appeals and subsequent hearings are frequently complicated and costly. The disputes often involve many parties such as government, industry, public interest groups, and locally affected residents, resulting in time-consuming proceedings that are increasingly complex in their context and legality. The Board has found ADR offers many advantages over formal hearings including:

- more efficient use of Board resources;
- more effective promotion of consensus;
- a reduction in the length of hearing times;
- reduced administrative and legal costs;
- the facilitation of dialogue between industry and the public so that affected parties self-determine an agreed upon outcome;
- an informal and flexible setting that benefits the layperson not experienced with formal Board procedures;
- more receptive to the needs of the parties as it can be conducted at a convenient location in person, in writing, or by telephone, depending upon the wishes of the parties and the Board; and
- provides a neutral person (mediator) who facilitates communication between the parties and guides the process by providing basic procedural information.

By using mediation, the Board has had success in helping parties negotiate appropriate and effective resolutions to contentious issues. ADR facilitates communication between the parties, and as such, can lead to negotiated resolutions which are naturally better suited to the parties needs than a discretionary judgment by a third party like the Board.

## Facilitation

Reasonable notice of the time, place, and purpose of the mediation meeting is given in writing to the parties and other persons, if any, who are participating or seek to participate in the appeal. Board members have mediation training and, where possible, will attempt to facilitate a resolution of the appeal at a mediation meeting. A mediation meeting is held in person unless the presiding Board member concludes that personal attendance by the parties is unwarranted or impractical. In the latter circumstance, the mediation may be conducted by telephone or other appropriate means.

## Mediated Resolution/Settlement Conferences

When the parties agree to a resolution of the Notice of Appeal at the mediation meeting, the Board shall, within 15 days after the mediation, prepare a Report and Recommendations which includes the resolution to which the parties have agreed. The Report and Recommendations shall be submitted to the Minister to be dealt with according to the *Environmental Protection and Enhancement Act*, and a copy of the Report and Recommendations will be sent to each party.

## Procedural Matters

Where the parties do not agree to a resolution of the Notice of Appeal at the mediation, the Board member who facilitates the mediation will not be a member of the panel that hears the appeal. Further to this, the Board, in consultation with the parties, may:

- determine a date for a future mediation meeting before the hearing;
- admit any facts relevant to the hearing consented to by the parties;
- admit any evidence relevant to the hearing consented to by the parties;
- determine any matter of procedure;
- determine the order of witnesses for the hearing;
- have the parties exchange documents and written submissions;
- determine any other matters for the hearing;
- determine the issues for the hearing pursuant to section 87(2) and (3) of the Act; and
- obtain the signature of the person submitting the request.

## Hearings

The Board is committed to evaluating all scientific evidence presented by any party to an appeal in the context of the best available, current scientific knowledge that is relevant and applicable to the key matters

of the case appealed. However, this commitment must be pursued in a manner that does not place appellants who lack scientific support at any disadvantage in the process.

A Report and Recommendations is prepared and submitted to the Minister within 30 days of the conclusion of a hearing. The Board issues written decisions for all hearings and preliminary meetings regardless of the magnitude or scope of the issue. The intent is to analyze each issue raised during the hearing and provide clear and sound reasons, or at least a thorough explanation for Board decisions. Clearly written reasons show parties their evidence and arguments were understood and provide assistance to the courts and the Minister when Board decisions are reviewed. Written decisions also provide a permanent record of the Board's reasoning process which aids future parties in determining whether to appeal similar decisions and, if so, how to conduct their appeal effectively.

## Public Documents

The Board's Decisions and Reports and Recommendations are public documents and may be viewed at any of the following locations:

- The office of the Environmental Appeal Board, 306 Peace Hills Trust Tower, 10011 – 109 Street, Edmonton, Alberta, T5J 3S8, Phone: (780) 427-6207.
- University of Calgary Law Library, 2nd Floor, Murray Fraser Hall, 2500 University Drive NW, Calgary, Alberta T2N 1N4, Phone: (403) 220-5953.
- John A. Weir Memorial Law Library, 2nd Floor, Law Centre, University of Alberta, Edmonton, Alberta, T6G 2H5, Phone: (780) 492-3371.
- Alberta Government Library, Great West Life Building, 6th Floor, 9920 - 108 Street, Edmonton, Alberta, T5K 2M4, Phone: (780) 427-5870, Fax: (780) 422-0170.
- Environmental Law Centre, #204, 10709 Jasper Avenue, Edmonton; Alberta, Phone: (780) 424-5099, Fax: (780) 424-5133, Alberta Toll Free: 1-800-661-4238.

The Board's Decisions and Reports and Recommendations are also available for viewing online:

- Free Viewing: http://www3.gov.ab.ca/eab/decision.html or;
- Paid Subscription through QuickLaw in the AEAB database.

The Board also has a Practitioner Manual which contains summaries of all the Board's decisions. The manual is available from:

- The Legal Education Society of Alberta, 2610 Canada Trust Tower, 10104 - 103 Avenue, Edmonton, Alberta T5J 0H8.

As well, selected Board decisions are published in the *Administrative Law Reports* and the *Canadian Environmental Law Reports* series which are available by subscription from Carswell Publishing or at most law libraries across Canada.

## Finances

The Board's budget for each fiscal year, April 1 to March 31, is discussed with the Deputy Minister of Environment, approved by the Minister, then sent to Treasury and Cabinet for approval. In terms of administrative budgeting and future business planning, the Board keeps in close contact with policy administrators of the Department of Environment.

The rate and number of appeals before the Board is externally driven; therefore, the appeal activity is beyond the Board's control. Board costs vary depending on the number of appeals filed. However, the Board anticipates an increase in the complexity and number of appeals when additional Acts fall under the jurisdiction of the Board or when the Department of Environment introduces new rules or regulations. This was demonstrated by the January 1, 1999 inclusion of the *Water Act*. The Board expects annual costs in relation to appeals will continue to rise in correlation with the number of appeals filed.

Generally, as Alberta's environmental resources become more strained, leading to increasingly stringent environmental standards, and as economic resources become more stretched, the Board anticipates that Albertans will demand more from it and the appeal process. The Board will remain committed to meeting the needs of Albertans while concurrently viewing fiscal responsibility as a top priority. Standard business and accounting practices will be used to assess, plan, and monitor the expenditure of the Board's financial resources.

## Summary of Spending Profile

| | 1997-98 Actual | 1998-99 Actual | 1999-00 Actual | 2000-01 Actual | 2001-02 Estimate | 2002-03 Estimate |
|---|---|---|---|---|---|---|
| **Approved Operating Capital** | 593,868 | 630,685 | 745,226 | 898,502 | 934,000 | 950,000 |
| **Total** | $593,868 | $630,685 | $745,226 | $898,502 | $934,000 | $950,000 |

## Presentations

Through requests from various groups, the Board has increased public awareness regarding its process by providing public presentations and consultations. Appendix C lists the forums in which either the Chair, a Board Member or the Board's staff participated and provided information.

# Environmental Appeal Board Annual Report 2000

## Accomplishments

## Board Accomplishments

The following list of the Board's achievements indicates a commitment to our mission, objectives, the implementation of our strategies, and the achievement of our goals.

- The Board's decisions have been reported in Canadian Environmental Law Reports and Administration Law Reports. Decisions have also been the subject of scholarly analyses in law journals and have been widely reported in other legal and environmental publications. Inclusion of the Board's decisions in the aforementioned reports is a reflection of the importance and quality of Board decisions.

- The Board developed and implemented effective ADR strategies, including settlement coferences, and provides ongoing ADR training to Board members.

- In November of this year, the Board co-hosted a conference in Edmonton entitled: "Forging Partnerships Between Federal and Provincial Governments and Members of First Nations: Introduction to Mutual Gains Negotiations." This conference was a joint effort between The Federal Department of Indian Affairs and Northern Development and the Environmental Appeal Board. The conference addressed the use of mediation and alternative dispute resolution in the context of interest-based negotiation.

- The Board is a leader in Canada in the use of ADR to resolve environmental appeals.

- The Board moved to new facilities this year. The Board's new offices have more space which has allowed the Board to function more efficiently while saving rental costs for hearings or mediations. The need for more space is a function of the increased number and complexity of appeals before the Board.

- The Board developed a questionnaire, which is given to the parties to complete following mediation/settlement conferences to assess their satisfaction or concerns with the mediation process.

- The Board's decisions on whether to provide access to information have never been appealed under the *Freedom of Information and Protection of Privacy Act*. This reflects the quality of the Board's decision-making ability.

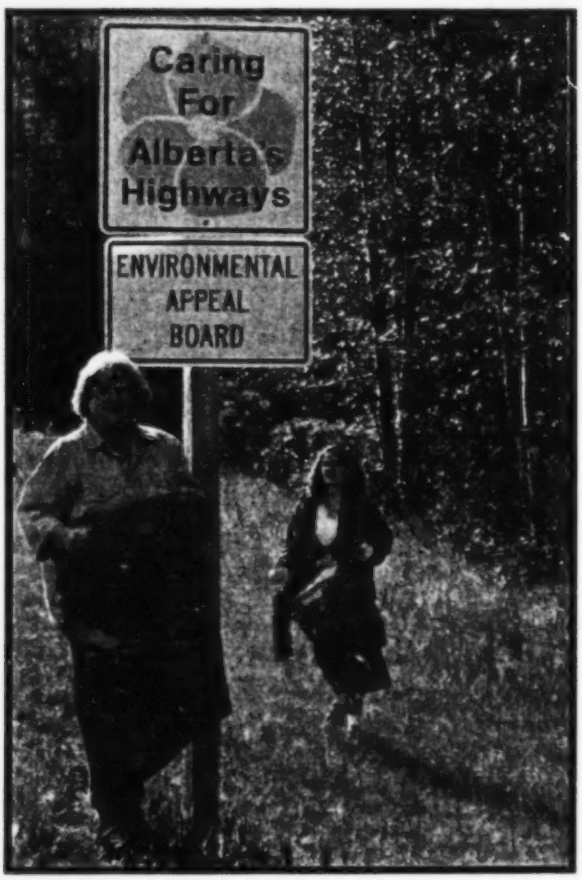
- Only one complaint against the Board has been put forth to the Ombudsman; it was dismissed.

- The Board annually participates in Alberta Transportation's Caring for Alberta's Highways (Adopt-a-Highway Program) whereby Board staff volunteer to clear litter from a 3-kilometre stretch of highway in Southern Alberta.

- The Board participates in the *Freedom of Information and Protection of Privacy* (FOIP) Co-Coordinators meetings.

- The Board is a member of the Council of Canadian Administrative Tribunals (CCAT) which assists and promotes the philosophy of administrative, quasi-judicial tribunals.

- Remaining accessible to Albertans, the Board maintains a web site. In 1998, the web site received 2,977 hits. During 1999 it was received 27,032 times, and during last year, the web site attracted 26,897 hits.



Environmental Appeal Board Annual Report 2000

Statistics

## Appeal Statistics

- **Number of Appeals**

During the calendar year, ending December 31, 2000, the Board received a total of 78 Appeals.

- **Time per Appeal**

The average time for processing an appeal, based on the total number of appeals over the Board's period of existence, is 2.05 months.

- **Mediation**

Since 1993, 69 matters (by Approval Holder) have undergone mediation. Fifty-two of these matters were resolved via the mediation process. This equates to a 75% success rate for the Board's mediation program.

- **Judicial Reviews**

Since the inception of the Board, through to December 31, 2000, 721 appeals have been filed. During this period, there have been 24 instances of judicial review stemming from 15 different Notices of Appeal. Of the 24 judicial reviews, ten have upheld the Board's decision, six were returned to the Board, six were withdrawn, and two are pending. During the past calendar year, there were three judicial reviews filed, as well as a pending judicial review action from 1997. Of the three new judicial reviews filed in 2000, one of the Board's decisions was upheld, one is pending a decision, and the third judicial review was withdrawn.

There were also two judicial reviews filed in 2000 based on the Minister's decision respecting a Report and Recommendations by the Board, but which did not directly involve the Board as a party. One of these was determined in the Court of Queen's Bench and the other is pending determination in the Court of Appeal. The Board monitors and reviews the appeals taken to judicial review both for procedural purposes and as a judicial reflection of the Board's procedural fairness in accordance with the law.

- **Reports and Recommendations**

The Board submitted 60 Report and Recommendations to the Minister between September 1, 1993, and December 31, 2000, of which only one was not accepted. Of the 60 Report and Recommendations, 11 were submitted to the Minister during the past calendar year and all were accepted.

- **Decision Reports**

The Board has issued 75 Decision reports since 1994. Of the 75 reports, nine were rendered during the calendar year ending December 31, 2000.

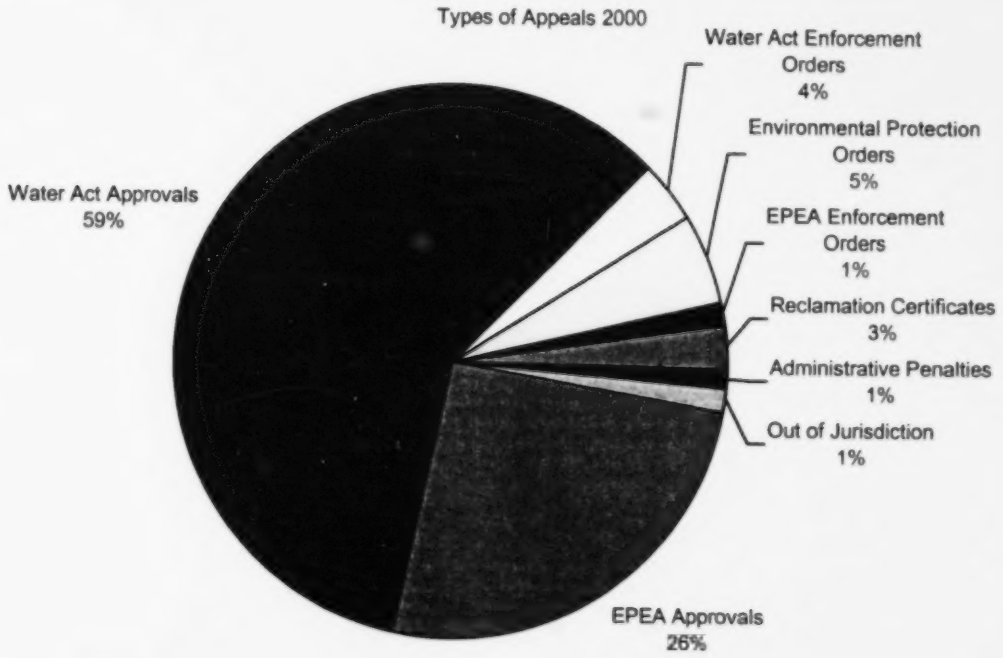
- **Costs Decisions**

The Board has issued 15 Costs Decisions since 1997. In 2000, five Costs Decisions were issued, one of which was a request for reconsideration of a 1999 Costs Decision.

## Appeal Types

During the 2000 calendar year, the Board received 78 appeals: as per Chart I, 20 pertained to approvals under the *Environmental Protection and Enhancement Act*, 46 pertained to Approvals under the *Water Act* (includes preliminary certificates and licences), 3 applied to *Water Act* enforcement orders, 4 applied to environmental protection orders, 1 applied to an EPEA enforcement order, 2 applied to reclamation certificates, 1 pertained to an administrative penalty, and 1 was out of the Board's jurisdiction. Summaries of the 78 appeals are set out in Appendix D. The breakdown of appellants by appeal type is contained in Appendix E.

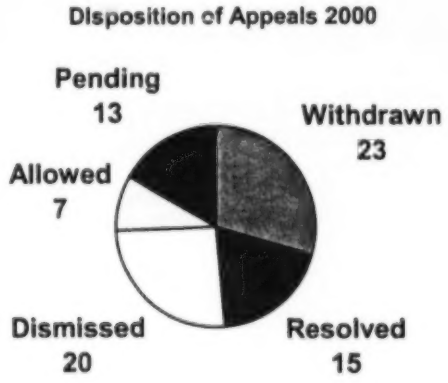
CHART I



## Appeal Results

Of the 78 appeals filed during 2000, as illustrated in Chart II, 23 were withdrawn by appellants, 15 were resolved by the parties through the Board's mediation process, 20 were dismissed by the Board, 7 were allowed, and 13 are pending.

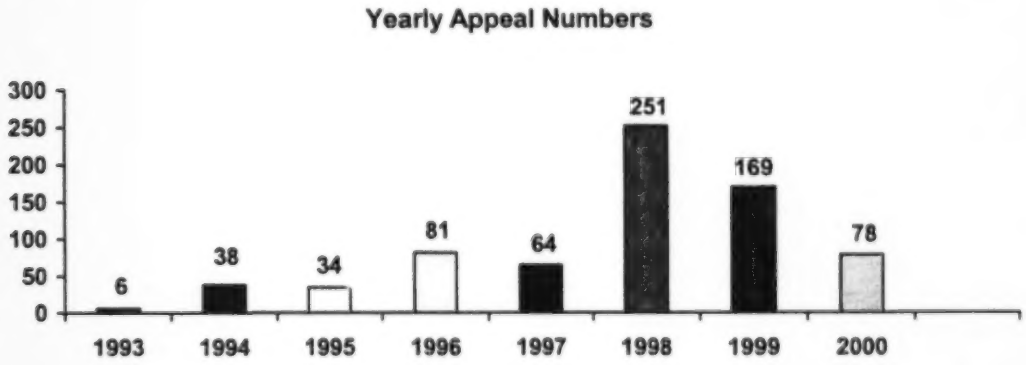
CHART II




## Number of Appeals

The following chart illustrates the change in the number of appeals filed over the last seven years.

CHART III




As seen in Chart III, 6 appeals were filed with the Board during the period of September to December, 1993. Presuming a constant rate of appeals filed, it is estimated that 24 appeals would have been filed in total during the 1993 calendar year. During the 1994 calendar year, 38 appeals were filed, representing a 58 percent increase to the estimated number of appeals for 1993. As appeals are externally driven, there are no obvious factors to account for the increase between 1993 and 1994, other than awareness of the Board's existence to members of the public and industry, who can also appeal.

During 1995, 34 appeals were filed. This represents a decrease of 11 percent from the previous year, but a 42 percent increase over the number of appeals in 1993. Again, no rationale is provided for the decrease from 1994 to 1995. However, at the end of 1996, 81 appeals were filed. This represents a 138 percent increase over the previous year. The majority of the appeals filed in 1996 related to one approval issued by the Department. During 1997, 64 appeals were filed which would provide an average of 48 appeals per year over the first five years. In 1998 there were 251 appeals filed, of which, 209 related to one approval. Of the 169 appeals filed in 1999, 115 related to 1 approval holder. During 2000, 78 appeals were filed which relates well to the 1996 and 1997 numbers where there was not one approval which generated a majority of appeals for that year.

## Summary of Appeals

Appendix D contains a summary of the appeals before the Board in this reporting period, as well as any outstanding appeals from previous years that were dealt with during the 2000 calendar year.

## Conclusion

The Board is proud of its operation and success achieved in 2000, as outlined in this report. The Board has fulfilled its commitment to advance the protection, enhancement, and wise use of the environment and has done so in a fair and impartial manner. The Board remains committed to that mission.

The Board also remains adaptable to change and will strive to continue to increase our efficiency, effectiveness, and the satisfaction of the parties with which we work. We will continue to work in a manner that is fiscally responsible and will strive to meet our performance targets. Our commitment to continued improvement and success remains strong.

The Board's Business Plan is available on request from the Board office.

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306 Peace Hills Trust Tower
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Edmonton, AB T5J 3S8
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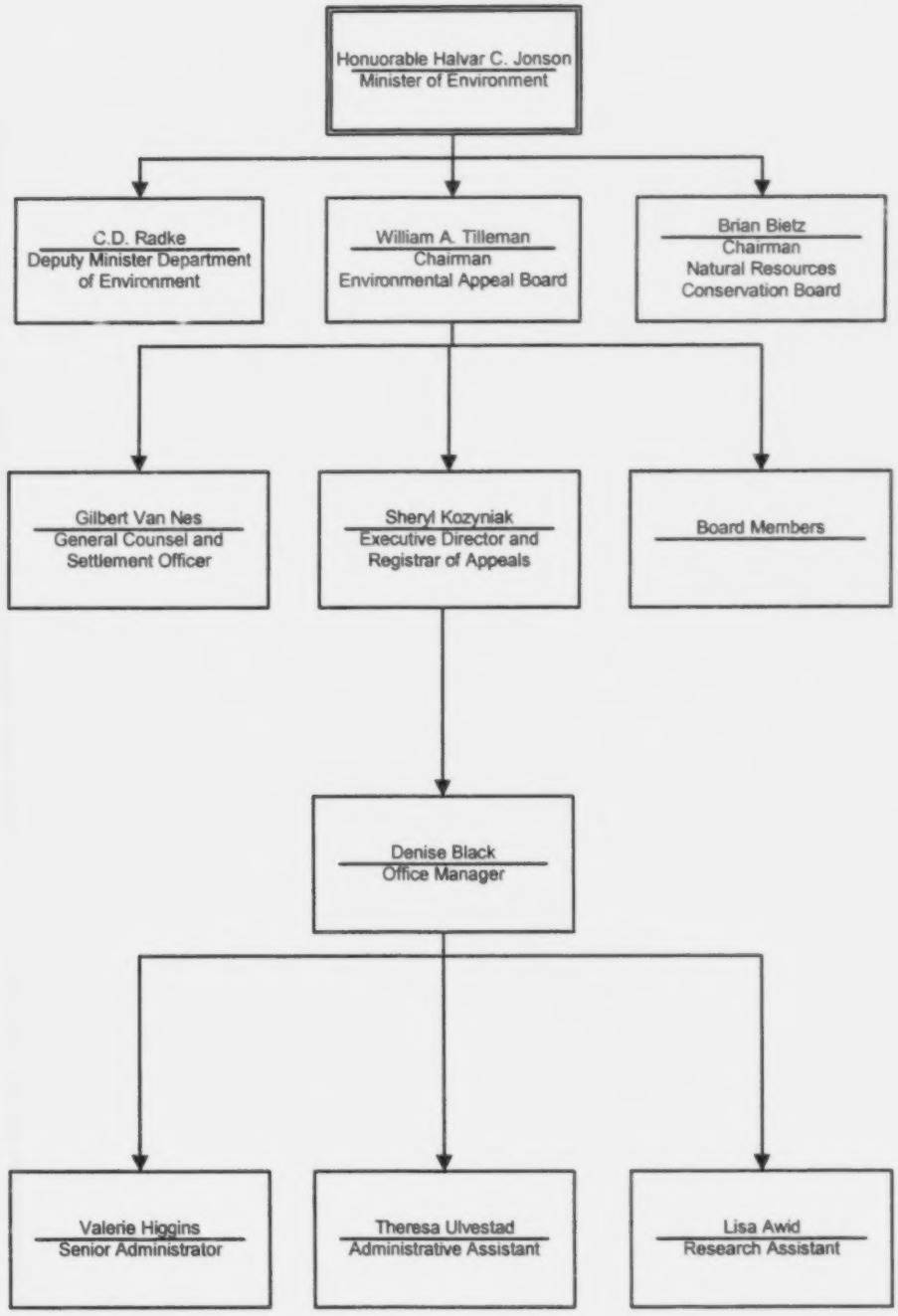
Fax: (780) 427-4693
Website: www.gov.ab.ca/eab/

# APPENDIX 'A'

# Organization Chart

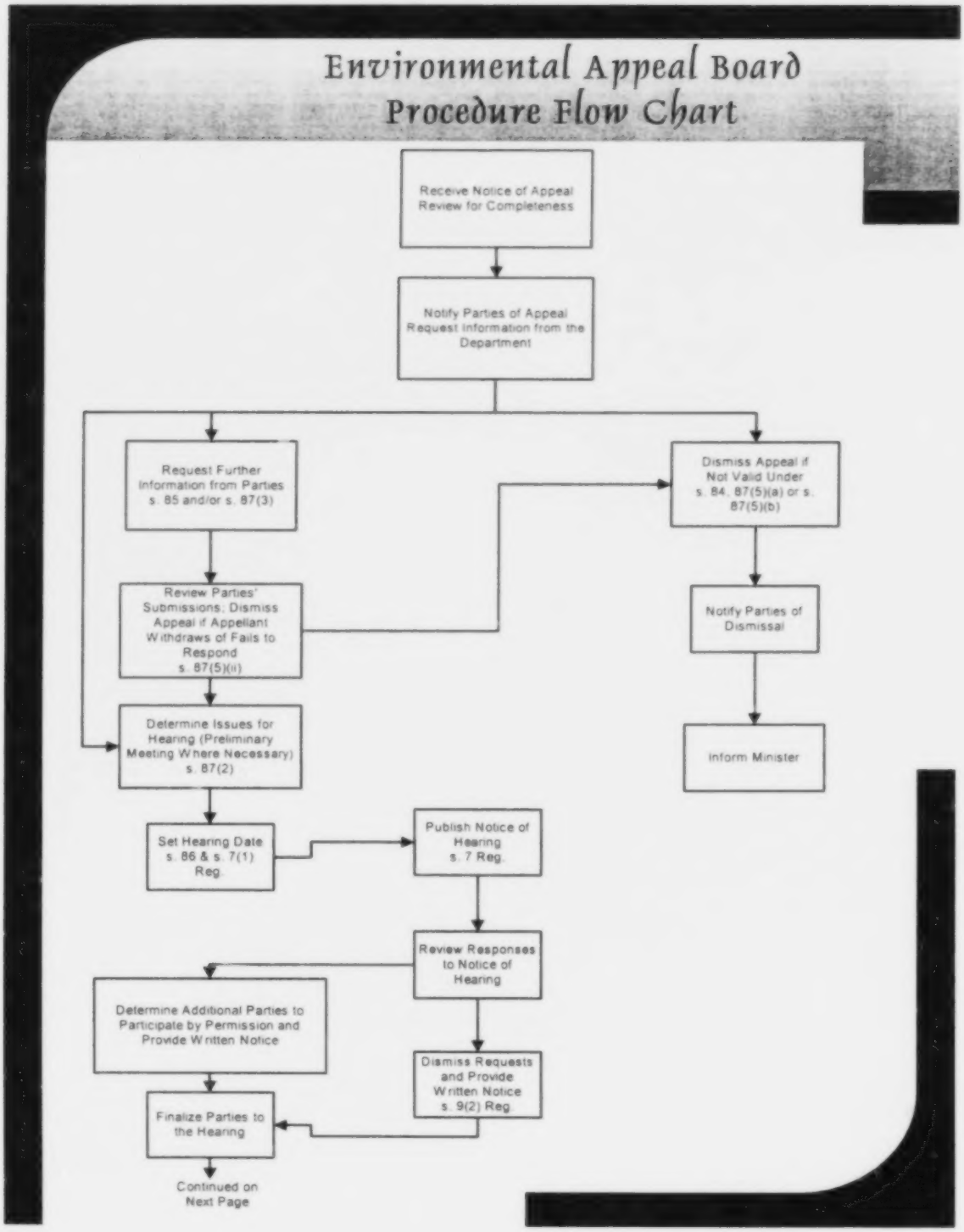
APPENDIX A

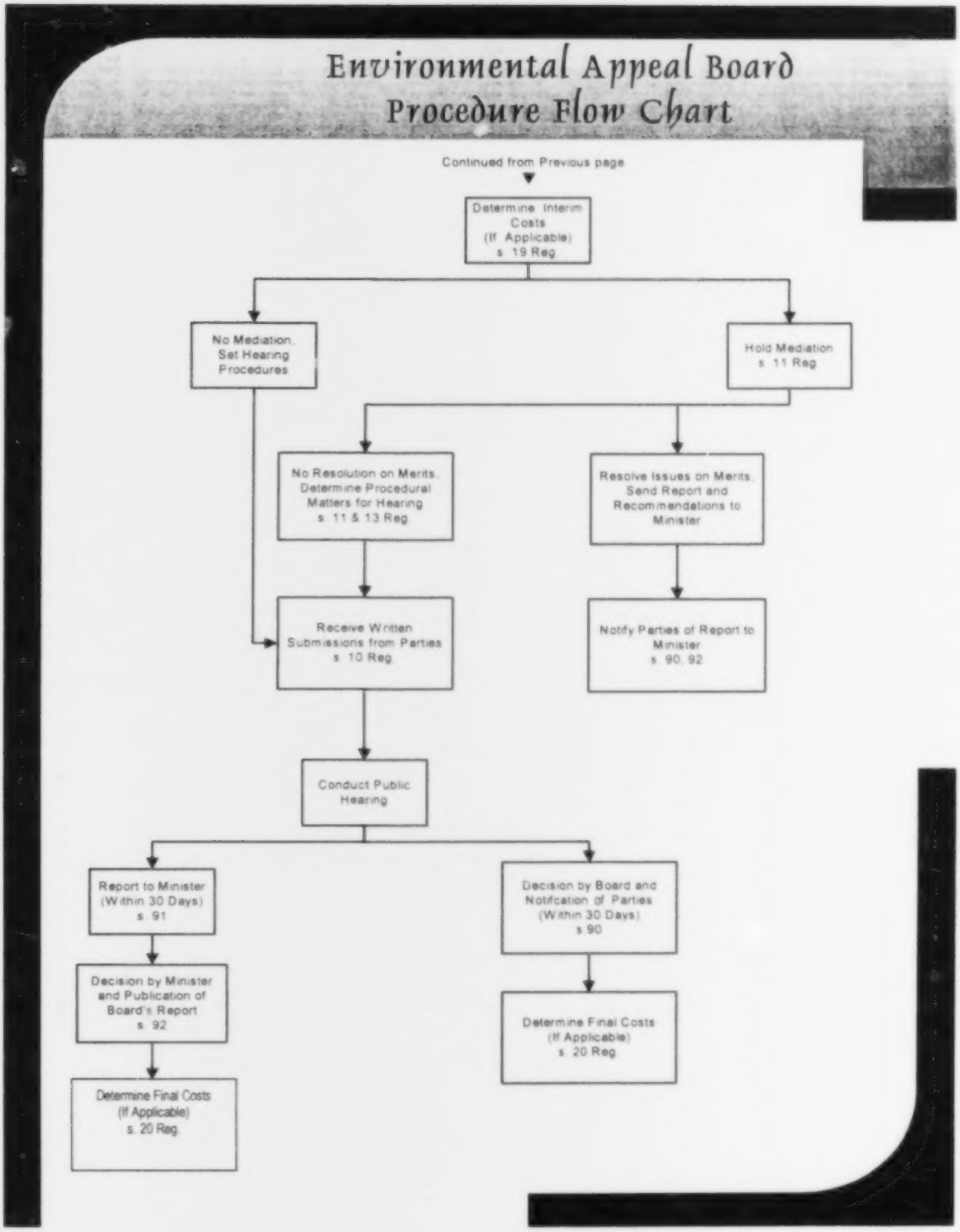
# Environmental Appeal Board Organization Chart



# APPENDIX 'B'

# Board Procedures: Flow Chart


Environmental Appeal Board
Procedure Flow Chart
Receive Notice of Appeal Review for Completeness
Notify Parties of Appeal Request Information from the Department
Request Further Information from Parties s. 85 and/or s. 87(3)
Dismiss Appeal if Not Valid Under s. 84, 87(5)(a) or s. 87(5)(b)
Review Parties' Submissions; Dismiss Appeal if Appellant Withdraws of Fails to Respond s. 87(5)(ii)
Notify Parties of Dismissal
Determine Issues for Hearing (Preliminary Meeting Where Necessary) s. 87(2)
Inform Minister
Set Hearing Date s. 86 & s. 7(1) Reg.
Publish Notice of Hearing s. 7 Reg.
Review Responses to Notice of Hearing
Determine Additional Parties to Participate by Permission and Provide Written Notice
Dismiss Requests and Provide Written Notice s. 9(2) Reg.
Finalize Parties to the Hearing
Continued on Next Page


Environmental Appeal Board
Procedure Flow Chart
Continued from Previous page
Determine Interim Costs (If Applicable) s. 19 Reg.
No Mediation. Set Hearing Procedures
Hold Mediation s. 11 Reg.
No Resolution on Merits. Determine Procedural Matters for Hearing s. 11 & 13 Reg.
Resolve Issues on Merits. Send Report and Recommendations to Minister
Receive Written Submissions from Parties s. 10 Reg.
Notify Parties of Report to Minister s. 90, 92
Conduct Public Hearing
Report to Minister (Within 30 Days) s. 91
Decision by Board and Notifcation of Parties (Within 30 Days) s. 90
Decision by Minister and Publication of Board's Report s. 92
Determine Final Costs (If Applicable) s. 20 Reg.
Determine Final Costs (If Applicable) s. 20 Reg.

# APPENDIX 'C'

## Public Presentations And Consultations

## Appendix C
## Public Presentations and Consultations by the Board

| Date & Presenter | Audience / Topic / Location |
|---|---|
| January 24, 2000<br>William A. Tilleman, Q.C.<br>(Chair) | The Canadian Environmental Assessment Act Five Year Review<br>By Centrum Information<br>- Lessons from Case Law: Implications of Significant Recent Decisions<br>Toronto, ON |
| March 23, 2000<br>Joanne Taylor<br>(Registrar) | Alberta Institute of Agrologists Y2K Annual General Meeting<br>- Role of the Environmental Appeal Board<br>Calgary |
| March 24, 2000<br>William A. Tilleman, Q.C.<br>(Chair) | National Environmental Law Section, Continuing Legal Education Committee (Canadian Bar Association), the American Bar Association<br>and the Inter-American Bar Association<br>- Enforcement and Appeal Mechanisms<br>Calgary |
| June 12, 2000<br>Gilbert Van Nes<br>(Board Counsel) | Council of Canadian Administrative Tribunals<br>Annual Conference<br>- Recent Developments at the EAB<br>Ottawa, ON |
| June 23, 2000<br>Gilbert Van Nes<br>(Board Counsel) | Learning Program 2000<br>Chair, Environmental Assessment and Appeal Boards of Toronto, ON.<br>- Environmental Adjudication in Alberta and Manitoba<br>Mandate, Objectives, Process, Issues<br>Toronto, ON |

## Appendix C
## Public Presentations and Consultations by the Board

| Date & Presenter | Audience / Topic / Location |
|---|---|
| September 14, 2000<br>Gilbert Van Nes<br>(Board Counsel) | Canadian Bar Association Environmental Law Section<br>- Recent Changes to the EAB, Recent Decisions, Judicial Reviews<br>Edmonton |
| September 26, 2000<br>Gilbert Van Nes<br>(Board Counsel) | The Canadian Institute<br>- Environmental Appeals: Latest Developments and Appeals Strategies<br>Calgary |
| November 24, 2000<br>Gilbert Van Nes<br>(Board Counsel) | Lakeland College<br>- The EAB and Reclamation<br>Vermilion |

# APPENDIX 'D'

# Summary of Appeals

APPENDIX D

# Summaries of Appeals from 2000

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Sarg Oils and Sergius Mankow<br>**Operator**: Sarg Oils<br>**Location**: Camrose<br>**Type of Appeal**: Decision/Report and Recommendations<br>**Appeal No.** 94-011 | **Overview** - On September 19, 1994, 16 appeals were filed by Sarg Oils and Sergius Mankow with respect to the issuance of 16 Environmental Protection Orders (EPOs). The EPOs required the Appellants take remedial action with respect to 16 abandoned well sites near Camrose.<br><br>**Decision** – May 11, 1995, the Board issued a Decision indicating that Alberta Environmental Protection did not err in issuing the EPOs against Mankow and Sarg. The Board's decision underwent judicial review in the Court of Queen's Bench with a judgment stating that the Board must rehear the appeal.<br><br>Cite as: *Sarg Oils Ltd.* v. *Director of Land Reclamation, Alberta Environmental Protection* (11 May 1995), Appeal No. 94-011 (A.E.A.B.).<br><br>**Report and Recommendations** - A hearing took place on November 5 and 6, 1996, in Edmonton. The Board issued a Report and Recommendations to the Minister on December 5, 1996, confirming Alberta Environmental Protection issued the EPOs properly; however, directing that Alberta Environmental Protection immediately examine the criteria followed when deciding what parties are to be recipients of EPOs; and the criteria should be made publicly available. The Minister agreed with the Board's report on December 16, 1996. On May 12, 1997, counsel for Sarg Oils and Sergius Mankow filed a judicial review in the Court of Queen's Bench in Lethbridge. As of December 31, 2000, the judicial review is pending.<br><br>Cite as: *Sarg Oil Ltd. and Sergius Mankow* v. *Director of Land Reclamation, Alberta Environmental Protection* (5 December 1996), Appeal No. 94-011 (A.E.A.B.). |
| **Appellant(s)**: Mr. David and Mrs. Ethel Jessey<br>**Operator**: Municipal District (M.D.) of Rocky View No. 44<br>**Location**: Langdon<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 96-013 | On June 14, 1996, the Board received a Notice of Appeal from Mr. David and Ethel Jessey with respect to Approval No. 918-01-00 issued to the M.D. of Rocky View No. 44 for the operation of a wastewater treatment plant (wastewater stabilization ponds) and a wastewater collection system for the Hamlet of Langdon. In consultation with the parties, the Board scheduled a mediation for August 27 and a hearing for September 10, 1996. At the mediation meeting, it was agreed to hold the appeal in abeyance until January 15, 1997 pending submission of a status report by Alberta Environmental Protection, and adjourning the hearing scheduled for September. On January 9, 1997, the Approval Holder requested a further adjournment in order to consult with third parties not before the Board, and to complete a sewage effluent engineering study brought forward to the Municipal Council. In consultation with the parties, the Board held a mediation meeting on April 23, 1997, in Calgary with Dr. John Ogilvie as presiding Board member. As no resolution was reached at the mediation, a hearing was scheduled for July 15 and 16, 1997. On May 10, 2000, the Board received a letter from the Appellants advising that an agreement had been reached and that the appeal would be withdrawn. On May 15, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Jessey* v. *Director, Air and Water Approvals, Alberta Environmental Protection* re: *Municipal District (M.D.) of Rocky View No. 44* (10 May 2000), Appeal No. 96-013 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Village of Duchess, the Canadian Imperial Bank of Commerce (the "CIBC") and Shell Canada Limited ("Shell Canada")<br>**Operator**: Village of Duchess, the CIBC, and Shell Canada<br>**Location:** Duchess<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal Nos.** 97-021, 22 & 97-025 | On June 3, 6, and 12, 1997, the Board received appeals from the Village of Duchess, the CIBC, and Shell Canada, respectively regarding a Notice of Designation as a Contaminated Site 03/97, including Lots 1-6, Block 1, Plan 1868BA and adjacent affected land. On July 10, the Board also received a letter from Mr. Ed and Ms. Tammy Asuchak that were not appealing the designation, but requested standing to appear before the Board at any hearings. On August 26, 1997, after the Asuchaks requested to be declared an official "party" to the appeal and the parties were consulted, their request was granted in consultation with the parties. The Board held a mediation meeting on August 27, 1997 in Calgary, Alberta, and on August 28, 1997, the Board provided the parties with information they agreed to at the mediation and advised that Alberta Environmental Protection would be submitting a status report to the Board by October 15, 1997. In consultation with the parties, the Board scheduled a hearing, however, it was adjourned to permit rezoning the land by the Village of Duchess. On May 19, 2000, the Board was advised that the Notice of Designation 03/97 was cancelled by Alberta Environmental Protection on the grounds that 1. The site was zoned for commercial use and has been returned to ownership by the Village, 2. The contamination remaining on site did not constitute a significant adverse effect to the environment, and 3. The contamination that extends off the site appeared to be confined to the municipal roadway. On May 23, 29, and July 4, 2000, the Village of Duchess, Shell Canada, and the CIBC, respectively, wrote to the Board withdrawing their appeals, and on October 18, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Village of Duchess et al.* v. *Director, Chemicals Assessment and M[illegible]gement, Alberta Environmental Protection* (18 October 2000), Appeal Nos. 97-21, 22 & 97-025 (A.E.A.B.). |
| **Appellant(s):** Mr. Nazmin Nurani and Ms. Zeini Virji-Nurani, Roper Bottle Depot<br>**Operator**: Roper Bottle Depot<br>**Location**: Edmonton<br>**Type of Appeal**: Costs Decision<br>**Appeal No.** 97-026 | **Cost Decision** – On March 6, 2000, the Board issued a Costs Decision concluding that the costs of these various proceedings should be borne by the parties themselves and that it is not an appropriate case for any award under section 20 of the Environmental Appeal Board Regulation.<br><br>Cite as: *Cost Decision* re: *Nurani and Virji-Nurani* (6 March 2000), Appeal No. 97-026 (A.E.A.B.). |
| **Appellant(s):** Mr. Wayne and Ms. Laurel Penson<br>**Operator:** Pembina Corporation<br>**Location:** Valleyview<br>**Type of Appeal:** Decision<br>**Appeal No.** 98-005 | **Decision** - On December 9, 1999, the Board received a request from Mr. Wayne and Ms. Laurel Penson to reconsider its Decision of December 1, 1999. On February 18, 2000, the Board issued a Decision to not reconsider its December 1, 1999 decision and dismissed the request.<br><br>Cite as: *Penson Request for Reconsideration,* re: *Reconsideration of Costs Decision re: Penson and Talisman Energy Inc.* (9 December 1999), Appeal No. 98-005 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Mr. Charles W. Forster of Legal Oil and Gas Ltd.<br>**Operator:** Legal Oil and Gas Ltd.<br>**Location**: Sturgeon<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal No.** 98-006 | On February 24, 1998, Mr. Charles W. Forster of Legal Oil & Gas Ltd. filed an appeal with respect to Environmental Protection Order (EPO) No. 98-01 on the grounds that it is not the operator of the site in question. A mediation meeting was held on July 17 and August 21, 1998. A hearing was set and then changed to a mediation meeting. Following the mediation meeting on October 22, 1998, all parties consented to hold the file in abeyance pending the issuance of a new EPO by Alberta Environmental Protection. On January 13, 2000, Alberta Environmental Protection issued a new EPO (No. 2000-01) to Legal Oil and Gas Ltd. and Mr. Charles Forster, thereby terminating this appeal. On January 21, 2000, the Appellant withdrew the appeal, and the Board issued a Discontinuance of Proceedings on January 25, 2000.<br><br>Cite as: *Legal Oil and Gas Ltd. #3* v. *Director, Land Reclamation Division, Alberta Environmental Protection* (25 January 2000), Appeal No. 98-006 (A.E.A.B.). |
| **Appellant(s)**: Mr. Charles W. Forster and Legal Oil and Gas Ltd.<br>**Operator:** Legal Oil and Gas Ltd.<br>**Location:** Sturgeon<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 98-007 | **Discontinuance of Proceedings** - On February 24, 1998, the Board received a Notice of Appeal and request for a Stay from Mr. Charles W. Forester and Legal Oil and Gas Ltd. with respect to the issuance of Environmental Protection Order (EPO) 98-02 and were seeking a Stay of the EPO. In a letter of March 9, 1998, Alberta Environmental Protection advised Legal Oil and Gas Ltd. it would not be required to seek a formal Stay, however, if circumstances suddenly changed, they may require immediate compliance with the EPO. After consultation with the parties, a mediation meeting took place on July 17, 1998. The Board also provided a copy of the appeal file to the Alberta Energy and Utilities Board, Union Pacific Resources, and Mr. Brian Cornelis (landowner) as potential interested parties. At the mediation meeting, it was agreed to hold the appeal in abeyance for 90 days, as well as hold a mediation meeting on October 23, 1998, and a hearing on November 6, 1998. Following the mediation meeting, the parties agreed to develop a remediation plan to resolve the EPO, and the November hearing was adjourned. From October 30, 1998, to March 15, 1999, discussions took place between the parties regarding the remediation plan, and on March 12, 1999, the Appellants suggested that the matter be returned to the Board's mediator. Another mediation meeting took place on April 26, 1999, and it was agreed to hold the appeal in abeyance for one month. In consultation with the parties, a mediation meeting was scheduled for December 14, 1999, and a hearing on April 17 and 18, 2000. On April 11, 2000, the Appellants advised the Board that they were not in a position to file their written submissions, however, they were working toward a resolution of the appeal. On April 14, 2000, the Appellants withdrew the appeal, and on the same day, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Legal Oil and Gas Ltd. #4* v. *Director, Land Reclamation Division, Alberta Environmental Protection* (14 April 2000), Appeal No. 98-007 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Cabre Exploration Ltd.<br>**Operator:** Cabre Exploration Ltd.<br>**Location:** Provost<br>**Type of Appeal:** As listed<br>**Appeal No.** 98-251 | **Overview** - On December 16, 1998, Cabre Exploration Limited filed an appeal with respect to the decision of Alberta Environmental Protection to refuse to issue a Reclamation Certificate to Cabre Exploration Limited.<br><br>**Report and Recommendations** - The Board held a mediation on April 6, 1999. As no resolution was reached, hearings took place on August 18 and September 3, 1999. The Board issued a Report and Recommendations allowing the appeal on October 29, 1999, which the Minister agreed to on December 16, 1999. At the end of the hearing, all parties agreed to make written closing arguments and cost applications.<br><br>Cite as: *Cabre Exploration Ltd.* v. *Conservation and Reclamation Officer, Alberta Environmental Protection* (29 October 1999), Appeal No. 98-251 (A.E.A.B.).<br><br>**Costs Decision** – On January 26, 2000, the Board issued a Cost Decision concluding that, since Cabre did not seek costs against the landowner, the costs appropriately remain Cabre's own responsibility, and should not be borne by the public through the Board or Alberta Environment, and therefore, no costs were awarded in the appeal.<br><br>Cite as: *Cost Decision* re: *Cabre Exploration Ltd.* (26 January 2000), Appeal No. 98-251, (A.E.A.B.). |
| **Appellant(s)**: Mr. Charles Kazmierczak<br>**Operator**: County of Athabasca<br>**Location:** Grassland<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-004 | On February 24, 1999, Mr. Charles Kazmierczak filed an appeal with respect to an extension of Approval No. 80-ML-012-R3'93 to February 1, 2000, which was originally issued to the County of Athabasca No. 12 on February 3, 1993. The Approval authorizes the County of Athabasca to operate or use a wastewater collection system and wastewater stabilization ponds for the Hamlet of Grassland. On April 27, 2000, the Board asked if the parties wished to participate in a mediation meeting. In consultation with the parties, the Board scheduled a mediation meeting for June 23, 1999, at the residence of the Appellant in Grassland, and an interim mediation agreement was signed. Due to concerns in carrying out the interim mediation agreement, the Board scheduled a second mediation meeting for December 17, 1999, which was rescheduled to February 10, 2000, then held in abeyance until May 2, 2000, after consulting with the parties. On May 1, 2000, the Appellant and Alberta Environment requested that the appeal be held in abeyance as the parties were continuing to work on the interim mediation agreement which included amending the agreement. The request was granted by the Board. On July 18, 2000, a resolution was reached between the parties and Mr. Kazmierczak withdrew his appeal. On October 11, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Kazmierczak* v. *Director, Notheast Boreal Region, Alberta Environment*, re: *County of Athabasca No. 12* (11 October 2000), Appeal No. 99-004 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Gilbert J. Clark<br>**Operator:** H.N.T. Enterprises Ltd.<br>**Location:** Sylvan Lake<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-006 | On March 16, 1999, Mr. Gilbert J. Clark filed an appeal with respect to Approval No. 00072331-00-00, issued under the *Water Act* to H.N.T. Enterprises Ltd. which authorizes the operator to construct shoreline erosion control works in Sylvan Lake at Lots 15 and 16, Block 2, Plan No. 1823 MC, SW 26-39-02-W5M. On April 28, 1999, the Appellant requested the appeal be held in abeyance pending a Development Appeal Board hearing relating to similar issues. In consultation with the parties, the Board scheduled a mediation meeting on June 28, 1999, in Calgary, Alberta, whereby the parties agreed to hold the appeal in abeyance and provide status reports to the Board by September 8, 1999. In consultation with the parties and in order to discuss outstanding issues, the Board scheduled a second mediation meeting for December 2, 1999, in Calgary, Alberta. Following the mediation meeting, the parties agreed to submit a status report by January 31, 2000, and agreed that if a resolution could not be reached by January 31, 2000, a formal hearing would ensue. The Appellant and Alberta Environment wrote to the Board on January 27 and 28, 2000, respectively, requesting that the hearing be adjourned as they were working on a solution. After further discussion, and due to differences between the parties, they requested that a hearing be scheduled. On October 20, 2000, the Appellant abandoned his appeal, and on October 30, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Clark* v. *Director, Regional Support, Parkland Region, Alberta Environment* re: *H.N.T. Enterprises Ltd.* (30 October 2000), Appeal No. 99-006 (A.E.A.B.). |
| **Appellant(s)** Plainsland Airspray Limited<br>**Operator**: Plainsland Airspray Limited<br>**Location**: Lethbridge<br>**Type of Appeal**: Decision<br>**Appeal No.** 99-007 | On March 15, 1999, Plainsland Airspray Limited filed an appeal with respect to Administrative Penalty No. 00/09-PRA-AP-99/10 issued to Plainsland Airspray Limited. A hearing was scheduled for October 1, 1999, however it was adjourned as Alberta Environment wished to enter into a mediation resolution with the Appellant to resolve the matter. On November 29, 1999, the Appellant withdrew the appeal. On January 21, 2000, the Board issued a Decision advising that pursuant to section 90(3)(a) of the *Environmental Protection and Enhancement Act*, the Notice of Administrative Penalty No. 99/09 PRA-AP-99/10 is void and as a consequence set aside. The Board also confirmed the parties' agreement which is without costs.<br><br>Cite as: *Plainsland Airspray Limited* v. *Director of Enforcement and Monitoring, Alberta Environment.* (21 January 2000), Appeal No. 99-007 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Whitefish Lake First Nation<br>**Operator** :Tri Link Resources Ltd.<br>**Location**: Little Buffalo<br>**Type of Appeal:** As listed<br>**Appeal No.** 99-009 | **Overview** - On March 17, 1999, the Whitefish Lake First Nation filed an appeal with respect to Amending Approval 45-00-05 issued to Tri Link Resources Ltd. asserting that its aboriginal rights would be impaired by air pollution and other environmental impacts.<br><br>**Decision** - The Board held a hearing via written submissions on October 13, 1999, with final reply submissions on October 20, 1999. On November 19, 1999, the Board issued a Decision dismissing the appeal and concluded that the validity of the First Nation's claimed aboriginal rights was not "properly before" the Board.<br><br>Cite as: *Whitefish Lake First Nation* v. *Director, Northwest Boreal Region, Alberta Environmental Protection*, re: *Tri Link Resources Ltd.* (19 November 1999), Appeal No. 99-009 (A.E.A.B.).<br><br>**Reconsideration Decision** – On December 7, 1999, the Whitefish Lake First Nation asked the Board to reconsider its Decision pursuant to section 92.1 of the *Environmental Protection and Enhancement Act* based on a decision of the British Columbia Court of Appeal – *Halfway River First Nation* v. *British Columbia* (*Minister of Forests*) [1999] B.C.J. No. 1880. On September 28, 2000, the Board issued a Reconsideration Decision advising that having considered all matters brought before it, the Board was not persuaded that the *Halfway River* decision illustrates an error in the previous decision of the Board.<br><br>Cite as: *Whitefish Lake First Nation Request for Reconsideration* re: *Whitefish Lake First Nation* v. *Director, Northwest Boreal Region, Alberta Environment* re: *Tri Link Resources Ltd.* (28 September 2000), Appeal No. 99-009 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Mr. Roy Haugen on behalf of 113 Appellants, Mr. Mattheus and Ms. Leola Brost, Mr. Gerald Henry Smith, on behalf of the Concerned Citizens of West Central Lloydminster, and Mr. Joe and Ms. Patricia Rooks<br>**Operator:** ADM Agri-Industries Ltd.<br>**Location:** Lloydminster<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal Nos.** 99-012-016, 99-019-126 & 00-001-002 | Between the dates of April 10, 1999, and April 30, 1999, the Board received 113 Notices of Appeal from Mr. Roy Haugen, on behalf of himself and the Concerned Citizens of West Central Lloydminster, Mr. Mattheus and Ms. Leola Brost, and Mr. Gerald Henry Duncan Smith with respect to Approval No. 144-01-00 issued to ADM Agri-Industries Ltd. for the construction, operation, and reclamation of an oil seed plant in the City of Lloydminster. On January 10 and 14, 2000, Mr. Joe and Ms. Patricia Rooks, and Mr. Roy Haugen on behalf of himself and the Concerned Citizens of West Central Lloydminster filed Notices of Appeal with respect to Amending Approval 144-01-01. A mediation meeting took place on August 26, 1999, whereby no resolution was reached and a second mediation meeting was scheduled for September 28, 1999, then changed to November 4, 1999, as ADM Agri-Industries was assembling a draft resolution document for discussion with the Appellants. Following the second mediation meeting, the Board advised the parties that ADM Agri-Industries would continue to draft a resolution and, in consultation with the parties, a third mediation meeting would be scheduled for November 30, 1999. On November 18, 1999, Mr. Roy Haugen wrote to the Board advising that another mediation meeting would not be favourable and wanted to proceed directly to an appeal hearing. On November 19, 1999, the Board received and distributed the draft resolution "discussion document" to the parties. On November 22, 1999, the Appellants advised that the document did not meet their requirements and, therefore, still wished to proceed with a hearing. On January 31, 2000, after consulting the parties, the Board held a preliminary meeting and issued a letter decision on March 1, 2000, advising that the Board would consolidate the appeals of Approval 144-01-00 and Amending Approval 144-01-01. On March 4, 2000, the Appellants requested interim costs which the Board denied. On April 17, 2000, the Board confirmed the hearing dates of April 25-28, 2000 and reminded the parties of the deadline to submit written submissions. On April 19, 2000, Mr. Haugen requested interim costs, and that the appeal hearing be postponed in order to allow more time to provide further written submissions. On April 20, 2000, the Board wrote to Mr. Haugen, denying his requests on the grounds that Mr. Haugen had ample time to prepare the submissions. On April 20, 2000, the Appellants withdrew their appeals, and on April 26, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Haugen et al.* v. *Director, Parkland Region, Alberta Environment* re: *ADM Agri-Industries Ltd.* (26 April 2000), Appeal Nos. 99-012-016, 99-019-126 & 00-001-002 (A.E.A.B). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Lower Mosquito Creek Water Users Association<br>**Operator**: Town of Nanton<br>**Location**: Nanton<br>**Type of Appeal:** Report and Recommendations, and Costs Decision<br>**Appeal No.** 99-131 | **Overview**: On June 4, 1999, the Lower Mosquito Creek Water Users Association filed an appeal and Stay request with respect to Approval No. 1006-01-00 issued to the Town of Nanton.<br><br>**Report and Recommendations**: On September 28, 1999, the Appellant requested that the Stay, be adjourned *sine die*. On February 9, 2000, a mediation meeting took place in Nanton and a resolution was reached. On February 15, 2000, the Board issued a Report and Recommendations which the Minister accepted on February 29, 2000.<br><br>Cite as: *Lower Mosquito Creek Water Users Association* v. *Director, Prairie Region, Alberta Environment* re: *Town of Nanton* (15 February 2000), Appeal No. 99-131 (A.E.A.B.).<br><br>**Cost Decision**: On May 31, 2000, the Board received a letter from the Appellant requesting costs under section 88 of the *Environmental Protection and Enhancement Act*. After reviewing the information provided by the Appellant, the Board issued a Cost Decision on November 6, 2000, dismissing the request for costs on the basis that: 1. The mediation meeting resulted in a satisfactory resolution to the Notice of Appeal, and 2. The Board was not convinced that on the facts of this case that the farmers and ranchers of Nanton represented the public's interest in this appeal in a way that was different from the citizens of Nanton, or the taxpayers of Alberta, both of whom pay directly or indirectly for the municipal treatment systems.<br><br>Cite as: *Cost Decision* re: *Lower Mosquito Creek Water Users Association* (6 November 2000), Appeal No. 99-131 (A.E.A.B.). |

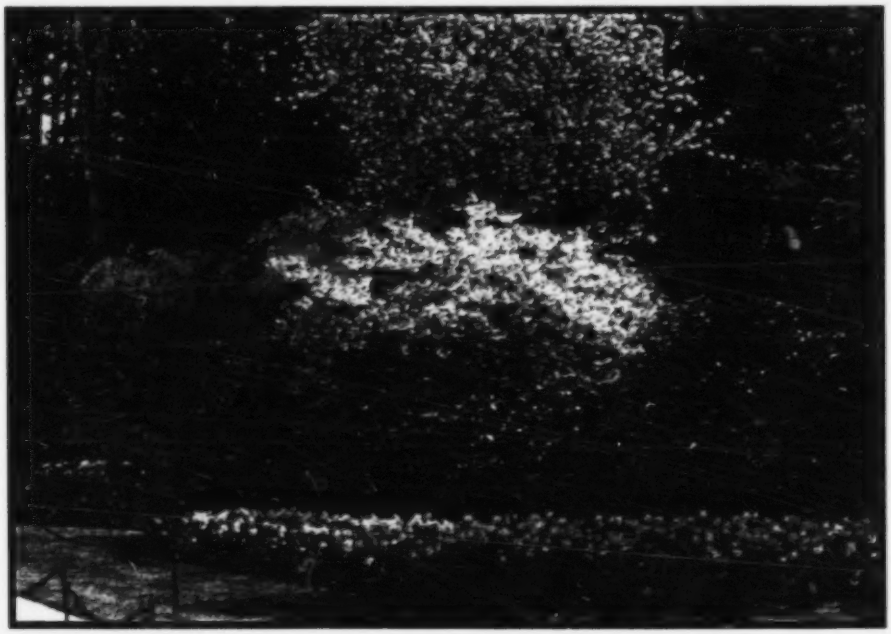
APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Archean Energy Ltd.<br>**Operator**: Archean Energy Ltd.<br>**Location**: Gordondale<br>**Type of Appeal**: Discontinuance of Proceedings (Active)<br>**Appeal No.** 99-136 | On April 27, 1994, Samedan Oil of Canada Inc. ("Samedan") applied for a reclamation certificate for a leased well site located on NW1/4 of 20-79-10-W6M. The site is located on land owned by Mr. Cryil Day. On September 27, 1994, an inquiry was held on the site, and as a result of a fence remaining on the land, a reclamation certificate was not issued. Samedan did not obtain a release from Mr. Day to permit the fence to remain. On January 21, 1998, Archean Energy Inc. , the successor to Samedan, requested the issuance of the same reclamation certificate as they had obtained a release from Mr. Day. On June 7, 1999, Alberta Environment advised Archean that a new application would need to be submitted and that the site would have to pass a new inquiry under section 121 of the *Environmental Protection and Enhancement Act*. On June 25, 1999, Archean filed a Notice of Appeal with respect to the decision of Alberta Environment to refuse to issue a reclamation certificate. In consultation with the parties, a mediation meeting/settlement conference took place on May 24, 2000, in Edmonton, Alberta, with Dr. Steve Hrudey as the presiding Board Member. At the mediation meeting the parties signed an "Interim Agreement Toward a Resolution" and also agreed to conduct a site inspection which took place on June 30, 2000. A second mediation meeting took place on September 6, 2000, however, it was unsuccessful. On the same day following the meeting, the Board wrote to the Appellant requesting that it advise as to how it wished to proceed. On October 5, 2000, Archean advised the Board that it was working toward resolving the matter with the parties and submitted a settlement to Mr. Day. As the settlement was refused by Mr. Day, negotiations were not progressing, and the parties did not wish to pursue a third mediation meeting settlement conference, the Board, upon review of the file, decided to conduct a hearing via written submissions. On December 8, 2000, the Board received a letter from Archean advising that they wished to withdraw their appeal, and as a result, a Discontinuance of Proceedings is pending. |
| **Appellant(s)**: McCain Foods (Canada) a Division of McCain Foods Limited ("McCain")<br>**Operator**: McCain Foods (Canada) a Division of McCain Foods Limited<br>**Location**: Chin<br>**Type of Appeal**: Report and Recommendations<br>**Appeal No.** 99-138 | On June 30, 2000, McCain filed an appeal with respect to Approval No. 72062-00-00 issued to McCain allowing the construction, operation, and reclamation of a vegetable processing plant near Chin, Alberta, in the County of Lethbridge. McCain appealed only Condition 4.2.7 of the Approval, which provides general prohibition of harmful air emissions from McCain's plant. McCain requested that the Condition be deleted because, in McCain's view, it exceeded Alberta Environment's jurisdiction under the *Environmental Protection and Enhancement Act* (EPEA) because it prohibits the release of harmful air emissions that cause adverse effects whereas section 98 of the EPEA only prohibits the release of harmful air emissions that cause significant adverse effects. After taking into consideration a number of issues, the Board recommended that the Minister of Environment dismiss the appeal by McCain and confirm Alberta Environment's adoption of Condition 4.2.7. On July 19, 2000, the Board issued a Report and Recommendations to the Minister which was agreed to on August 31, 2000.<br><br>Cite as: *McCain Foods (Canada)* v. *Director, Prairie Region, Alberta Environment* (31 August 2000), Appeal No. 99-138 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Westridge Water Supply Ltd.<br>**Operator**: Westridge Water Supply Limited<br>**Location**: Calgary<br>**Type of Appeal**: Decision<br>**Appeal No.** 99-142 | On August 11, 1999, Westridge Water Supply Limited filed a Notice of Appeal with respect to Licence No. 00074129-00-00 issued under the *Water Act* authorizing the diversion of 329,341 cubic metres of water annually at a maximum rate of 0.029 cubic metres per second from the water source well hydraulically connected to the Elbow River in NE 06-24-02-W5M for municipal purposes. The Appellant was concerned that the Licence did not reference section 18 of the *Water Act* and section 12(2) of the Water (Ministerial) Regulation. Upon reviewing the information provided by the parties, the Board concluded that the issues with respect to the appeal are: 1. Does the Board have the jurisdiction to deal with the "no expiry date" on the Licence? and 2. Does the Board have the jurisdiction to deal with the "reduction in the water quantity allocation" which the Appellant added to the Notice of Appeal pursuant to their letter of September 17, 1999. Upon reviewing the information, on November 10, 2000, the Board issued a Decision stating "...the Board is of the view that there are no grounds upon which to permit the Appellant to add the issue of the quantity of water allocated under the Licence to the Notice of Appeal. The Board dismisses the request of the Appellant to extend the 30 day deadline."<br><br>Cite as: *Westridge Water Supply Ltd.* v. *Director, Bow Region, Natural Resources, Alberta Environment* (10 November 2000), Appeal No. 99-142 (A.E.A.B.). |
| **Appellant(s)**: Mr. Worley Rosson Jr.<br>**Operator**: Search Energy Corp.<br>**Location**: Little Smoky<br>**Type of Appeal**: Report and Recommendations<br>**Appeal No.** 99-143 | On August 13, 1999, Mr. Worley Rosson, Jr. filed a Notice of Appeal with respect to licence #00074866-00-00 issued under the *Water Act* to Search Energy Corp. In consultation with the parties, the Board scheduled a mediation meeting for February 10, 2000, whereby a resolution was reached. On February 11, 2000, a Report and Recommendations was submitted to the Minister which he approved on February 29, 2000.<br><br>Cite as: *Rosson* v. *Regional Water Manager, Northwest Boreal Region, Alberta Environment* re: *Search Energy Corp.* (11 February 2000), Appeal No. 99-143 (A.E.A.B.). |
| **Appellant(s)**: Mr. Mardy Skibsted, Mr. and Ms. Don Knight, Chief Darlene Yellow Old Woman of the Siksika Nation Tribal Association<br>**Operator**: Town of Strathmore<br>**Location**: Strathmore<br>**Type of Appeal**: Dismissal<br>**Appeal Nos.** 99-145, 147 and 149 | From August 10 to September 1, 1999, Mr. Mardy Skibsted, Mr. and Ms. Don Knight, and Chief Darlene Yellow Old Woman filed Notices of Appeal with respect to Approval No. 1190-01-02 issued to the Town of Strathmore. On March 1, 2000, the Board wrote to all the parties advising that the Board would be closing its files on the grounds that: 1. The 1999 approval factually, is moot; 2. Alberta Environment is in the process of drafting the approval amendment; 3. Alberta Environment staff will discuss the draft amendment with the Statement of Concern filers, the Town of Strathmore, and the Western Irrigation District; and 4. A decision from Alberta Environment is imminent regarding the terms of the amendments to the approval. |
| **Appellant(s)**: Shell Canada Limited<br>**Operator**: Shell Canada Limited<br>**Location**: Cochrane<br>**Type of Appeal**: Report and Recommendations<br>**Appeal No.** 99-146 | On August 27, 1999, Shell Canada Limited, filed a Notice of Appeal with respect to sections 2.4.1, 4.2.19, and 4.2.22 of Approval No. 11587-01-01 issued to Shell Canada Limited. After consulting with the parties, the Board scheduled a mediation meeting for March 15, 2000, but it was rescheduled to April 11, 2000, in Calgary. At the mediation meeting, a resolution was signed by all the parties, and on April 12, 2000, the Board issued a Report and Recommendations to the Minister which was approved on April 20, 2000.<br><br>Cite as: *Shell Canada Limited* v. *Director, Bow Region, Alberta Environment* (12 April 2000), Appeal No. 99-146 (A.E.A.B.). |

## APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Dogertom *et al.*<br>**Operator**: ConAgra Limited<br>**Location**: Taber<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal Nos.** 99-150, 99-152, 99-154 & 99-155 | On September 13, 17, and 27, 1999, Mr. Francis Dogterom, Mr. Harold Collett, Mr. Dwayne and Ms. Linda Collett, and Mr. Brian Anderson, respectively, filed appeals with respect to Amending Approval No. 67726-00-02 issued to ConAgra Limited. In consultation with the parties, a mediation meeting was set for March 17, 2000, in Taber. On March 10, 2000, the Appellants withdrew their appeal and the Board issued a Discontinuance of Proceedings on March 13, 2000.<br><br>Cite as: *Dogterom et al.* v. *Director, Prairie Region, Alberta Environment* (13 March 2000), Appeal Nos. 99-150, 99-152, 99-154 & 99-155 (A.E.A.B.). |
| **Appellant(s):** Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd.<br>**Operator**: Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd.<br>**Location**: Calgary<br>**Type of Appeal:** Decision (Appeal is still Active)<br>**Appeal No.** 99-157 | **Overview** - On October 26, 1999, the Board received a Notice of Appeal and Application for a Stay from Macalgary Developments (Scenic) Inc. and Sunbow Consulting Ltd. with respect to Enforcement Order No. 99-01 issued under the *Government Organization Act*. The Order directs the Appellants to remove a berm constructed on a transportation utility corridor established as a Restricted Development Area.<br><br>**Decision** - The Board made numerous attempts to mediate this matter, however, on August 31, 2000, concluded that since Alberta Environment did not wish to participate in another mediation, a pre-hearing by written submission would be scheduled as soon as possible. As of December 31, 2000, the Board is receiving submissions regarding the content of the issues to be included in the hearing of the appeal.<br><br>Cite as: *Macalgary Developments (Scenic) Inc. et al.* v. *Deputy Minister, Alberta Environment* (31 December 2000), Appeal No. 99-157 (A.E.A.B.). |



## Appendix D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Dominion Energy Canada Ltd.<br>**Operator**: Dominion Energy Canada Ltd.<br>**Location:** Viking<br>**Type of Appeal:** Report and Recommendation<br>**Appeal No.** 99-159 | On November 2, 1999, Dominion Energy Canada Ltd. filed an appeal with respect to the refusal of Alberta Environment to issue a Reclamation Certificate to Dominion Energy Canada Ltd. A mediation took place on January 12, 2000 and a resolution was signed by all the parties. On January 14, 2000, the Board issued a Report and Recommendations to the Minister which were approved on January 21, 2000.<br><br>Cite as: *Dominion Energy Canada Ltd.* v. *Inspector, Land Reclamation Division, Parkland Region, Alberta Environment.* (14 January 2000), Appeal No. 99-159 (A.E.A.B.). |
| **Appellant(s)**: Dominion Energy Canada Ltd.<br>**Operator:** Dominion Energy Canada Ltd.<br>**Location**: Bow Island<br>**Type of Appeal:** Report and Recommendations<br>**Appeal No.** 99-160 | On November 2, 1999, Dominion Energy Canada Ltd. filed an appeal with respect to the refusal of Alberta Environment to issue a Reclamation Certificate to Dominion Energy Canada Ltd. A mediation took place on January 20, 2000 and a resolution was signed by all parties. On January 21, 2000, the Board issued a Report and Recommendations to the Minister, which was approved on February 7, 2000.<br><br>Cite as: *Dominion Energy Canada Ltd.* v. *Reclamation Inspector, Environmental Service, Prairie Region, Alberta Environment.* (21 January 2000), Appeal No. 99-160 (A.E.A.B.). |
| **Appellant(s)**: Talisman Energy Inc.<br>**Operator**: Talisman Energy Inc.<br>**Location**: Wainwright<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal No.** 99-161 | On November 8, 1999, Talisman Energy Inc. filed an appeal with respect to the refusal of Alberta Environment to issue a Reclamation Certificate to Talisman Energy Inc. A mediation meeting took place on January 18, 2000 and a resolution was reached. On February 22, 2000, Talisman Energy Inc., sent a letter to the Board stating that they would be withdrawing their appeal as the conditions of the mediation meeting have been met and that Alberta Environment certified the well site in question. On February 23, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Talisman Energy Inc.* v. *Inspector, Environmental Service, Parkland Region, Alberta Environment* (23 February 2000), Appeal No. 99-161 (A.E.A.B.). |
| **Appellant(s):** Ms. Margaret Barry<br>**Operator:** Dundee Development Corporation<br>**Location**: Edmonton<br>**Type of Appeal**: Report and Recommendations<br>**Appeal No.** 99-162 | On November 8, 1999, Ms. Margaret Barry filed a Notice of Appeal with respect to Approval No. 00076346-00-00 issued under the *Water Act* to Dundee Development Corporation. After consulting with the parties, the Board scheduled a mediation meeting for April 7, 2000 whereby a resolution was signed. On April 10, 2000, the Board issued a Report and Recommendations to the Minister, which he approved on April 20, 2000.<br><br>Cite as: *Barry* v. *Manager, Regional Support, Northeast Boreal Region, Natural Resources Service, Alberta Environment re: Dundee Development Corporation* (10 April 2000), Appeal No. 99-162 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Julian Nash<br>**Operator**: Mr. Julian Nash<br>**Location**: Slave Lake<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-163 | On November 11, 1999, Mr. Julian Nash filed a Notice of Appeal with respect to the refusal of Alberta Environment to issue an approval under the *Water Act* as requested. On December 1, 1999, the Appellant forwarded a letter to the Board requesting that the appeal be deferred to spring 2000. On December 9, 1999, the Appellant wrote to the Board advising that the grounds for the deferral is so the wind would hopefully rectify the situation. On December 17, 1999, the Board granted the request, with agreement from the parties, to defer the appeal. On April 19, 2000, the Board received a letter dated April 4, 2000 form the Appellant stating "As this work seems to go against government policy for lakeshore management we have decided to withdraw our application." On April 25, 2000, the Board issued a Discontinuance of Proceedings and closed its files.<br><br>Cite as: *Nash* v. *Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment.* (25 April 2000), Appeal No. 99-163 (A.E.A.B.). |
| **Appellant(s):** Mr. Brian Bildson<br>**Operator**: Smoky River Coal Ltd.<br>**Location:** Grande Prairie<br>**Type of Appeal:** (Active)<br>**Appeal No.** 99-164 | On November 15, 1999, the Board received a Notice of Appeal from Mr. Brian Bildson with respect to Amending Approval 11929-01-01 issued to Smoky River Coal Ltd. The Amending Approval authorizes the "opening up, operation and reclamation of the Smoky River Coal Mine and construction, operation and reclamation of the Coal Processing Plant, including the No. 12 Mine South B2 Pit Extension". On January 4, 2000, the Board received a notice from the Alberta Energy and Utilities Board (AEUB) indicating that a pre-inquiry meeting would be taking place on January 26, 2000, with respect to a hearing concerning the same coal mine development. Given this information, the Board wrote to the parties on January 12, 2000, proposing that the appeal be held in abeyance pending the outcome of the AEUB process which was agreed to by Mr. Bildson. On July 19, 2000, Alberta Environment advised the Board that the Approval Holder had been petitioned into receivership and provided the Board with a copy of an order of the Court, in the matter of *Montreal Trust Company of Canada Ltd.* v. *Smoky River Coal Limited et al.* (Action No. 0001-05474, Court of Queen's Bench, Judicial Centre of Calgary) dated July 10, 2000. As of December 31, 2000, the appeal is in abeyance pending the conclusion of the AEUB process, and the determination of the Approval Holder's situation. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Messrs. Leonard Despins and Allan Parranto<br>**Operator:** Messrs. Leonard Despins and Allan Parranto<br>**Location**: Eaglesham<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-165 | On November 17, 1999, Messrs. Leonard Despins and Allan Parranto filed an appeal with respect to the refusal of Alberta Environment to issue a licence under the *Water Act*. A mediation meeting took place on February 7, 2000 and following productive discussions, the Appellants withdrew their appeal on the same day. Therefore, the Board issued a Discontinuance of Proceedings on February 10, 2000.<br><br>Cite as: *Despins and Parranto* v. *Regional Water Manager, Northwest Boreal Region, Natural Resources Service, Alberta Environment.* (10 February 2000), Appeal No. 99-165 (A.E.A.B.). |
| **Appellant(s)**: New Dale Hutterian Brethren<br>**Operator:** New Dale Hutterian Brethren<br>**Location:** Milo<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-166 | **Overview**- On November 25, 1999, the New Dale Hutterian Brethren filed an appeal and application for Stay with respect to Enforcement Order No. 99-WA-02/*Water Act*.<br><br>**Discontinuance of Proceedings** - On December 1, 1999, Mr. Michael Monner advised the Board that his land may be affected by this appeal and wanted to be supplied with all pertinent information. On December 22, 1999, the Board granted the Stay and requested a Stay hearing for January 7, 2000. Consented to by all interested parties at the hearing, the Stay was extended to March 1, 2000. A mediation meeting took place on January 11, 2000, in Calgary and as a result of the mediation the parties continued to work towards resolution of the appeal. On January 17, 2000, the Appellant advised the Board that they would comply with the Enforcement Order and requested that once the action had taken place, the Enforcement Order be cancelled. On January 18, 2000, the Appellant advised the Board that they would not be proceeding further with the appeal and the Board issued a Discontinuance of Proceedings on January 24, 2000.<br><br>Cite as: *New Dale Hutterian Brethren* v. *Lethbridge Area Manager, Prairie Region, Alberta Environment* (24 January 2000), Appeal No. 99-166 (A.E.A.B.).<br><br>**Cost Decision** – This Cost Decision concerns a request for costs by an intervenor, Mr. Michael J. Monner in the amount of $2831.80 for out-of-pocket expenses incurred as a result of the original appeal. After reviewing Mr. Monner's written submissions, the Board found that the expenses were not directly and primarily related to the matters contained in the Notice of Appeal and on October 17, 2000 issued a Cost Decision dismissing Mr. Monner's request.<br><br>Cite as: *Cost Decision* re: *Monner* (17 October 2000), Appeal No. 99-166 (A.E.A.B.). |

## APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Duncan, Mr. Jack and Ms. Cecile Fleming<br>**Operator:** Willow Creek Regional Waste Management Services Commission<br>**Location**: Granum<br>**Type of Appeal:** Decision<br>**Appeal No.** 99-167 | On December 10, 1999, Mr. Duncan, Mr. Jack and Ms. Cecile Fleming filed a Notice of Appeal with respect to the registration of Willow Creek Regional Waste Management Services Commission's landfill. Alberta Environment requested that the appeal be dismissed as such registrations are not appealable to the Board in accordance with the *Environmental Protection and Enhancement Act*. On February 11, 2000, the Board issued a Decision to dismiss the appeal as the concerns brought forward by the Appellants are not matters properly before the Board.<br><br>Cite as: *Fleming* v. *Director, Prairie Region, Alberta Environment,* re: *Willow Creek Regional Waste Management Services Commission* (11 February 2000), Appeal No. 99-167 (A.E.A.B.). |
| **Appellant(s)**: Mr. Murray and Ms. Joyce Salsauler<br>**Operator:** Owners Condominium Corporation 9311680<br>**Location**: Champion<br>**Type of Appeal:** Decision<br>**Appeal No.** 99-168 | On December 17, 1999, Mr. Murray and Ms. Joyce Salsauler filed a Notice of Appeal with respect to Approval No. 16453-00-01 (Application No. 002-16453) issued to the Owners Condominium Corporation 9311680. On January 11, 2000, Alberta Environment requested that the appeal be dismissed as the filing of the notice was outside the 30-day time limit. On February 11, 2000, the Board issued a Decision dismissing the appeal on the grounds that the appeal is out of time and there are insufficient grounds to extend the appeal process.<br><br>Cite as: *Salsauler* v. *Director, Prairie Region, Alberta Environment,* re: *The Owners Condominium Corporation 9311680* (11 February 2000), Appeal No. 99-168 (A.E.A.B.). |
| **Appellant(s):** Ramarro Resources Inc.<br>**Operators:** Ramarro Resources Inc.<br>**Location:** Near Medicine Hat<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 99-169 | On December 16 1999, Ramarro Resources Inc. filed a Notice of Appeal with respect to Alberta Environment's refusal to issue a reclamation certificate. On January 11, 2000, Alberta Environment requested that the appeal be dismissed as the filing of the notice was outside the 30-day time limit. On February 4, 2000, the Board concluded that the appeal was not filed in a timely manner and there were insufficient grounds for the Board to extend the filing date. As part of the same letter, the Board provided the parties with a notice of its decision to dismiss the appeal. |
| **Appellant(s)**: Legal Oil and Gas Ltd. and Charles W. Forster<br>**Operators**: Legal Oil and Gas Ltd. and Charles W. Forster<br>**Location**: Sturgeon<br>**Type of Appeal:** (Active)<br>**Appeal No.** 00-003 | On January 14, 2000, the Environmental Appeal Board received a Notice of Appeal and application for Stay from Legal Oil and Gas Ltd. and Mr. Charles W. Forster. The appeal was with respect to Environmental Protection Order (EPO) No. 2000-01 issued to Legal Oil and Gas Ltd. and Mr. Charles W. Forster for contamination of a well known as LWS 3 LEGAL 3-21-57-25("3 of 21 site") located on lands at LSD3-SW-21-57-25-W4M and an interim Stay of the EPO. In consultation with the parties, the Board granted an abeyance pending the outcome of a judicial review of Board appeal file no. EAB 98-009 as the issues were interrelated. On June 9, 2000, Mr. Justice Clackson denied the judicial review of EPO 98-04 and on July 26, 2000, the Appellants filed a Notice of Appeal with the Court of Appeal with respect to the outcome of the first judicial review. On September 26, 2000, the Appellant requested that EAB 00-003 be held in abeyance again pending the Court of Appeal's decision and the Board granted the request on November 8, 2000. As of December 31, 2000, the appeal is held in abeyance pending the judicial review in the Court of Appeal. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd.<br>**Operators**: Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd.<br>**Location:** High Level and Grande Prairie<br>**Type of Appeal**: Report and Recommendations<br>**Appeal Nos.** 00-004 and 00-005 | On January 20 and 21, 2000, the Environmental Appeal Board received Notices of Appeal with respect to Approval No. 76335-00-01 issued to Footner Forest Products Ltd. for the construction, operation and reclamation of an oriented strand board plant near High Level and Amending Approval No. 1622-00-06 issued to Ainsworth Lumber Co. Ltd. for the construction, operation and reclamation of an oriented strand board and value added products plant near Grande Prairie respectively. A mediation meeting was held on April 10, 2000, in Edmonton whereby the parties reached an agreement with respect to a number of issues, and also agreed to hold a hearing on May 26, 2000. At the hearing, the Board concluded that the discretion exercised by Alberta Environment in issuing the Approval and Amending Approval was within authority under the *Environmental Protection and Enhancement Act* and was reasonable. On June 26, 2000, the Board issued a Report and Recommendations to the Minister, which was approved on July 28, 2000.<br><br>*Cite as: Ainsworth Lumber Co. Ltd. and Footner Forest Products Ltd.* v. *Director, Northwest Boreal Region, Alberta Environment* (26 June 2000), Appeal Nos. 00-004 and 00-005 (A.E.A.B.). |
| **Appellant(s)**: Mr. William and Ms. Susan Procyk<br>**Operator**: Dow Chemical Canada Inc.<br>**Location**: Fort Saskatchewan<br>**Type of Appeal:** Report and Recommendations<br>**Appeal No.** 00-006 | On January 29, 2000, Mr. William and Ms. Susan Procyk filed a Notice of Appeal with respect to Amending Approval 236-01-02 issued to Dow Chemical Canada Inc. for the construction, operation and reclamation of the Fort Saskatchewan chemical manufacturing plant. On February 17, 2000, Alberta Environment advised that the concerns brought forth by the Appellants did not address Amending Approval 236-01-02, but instead were used to reopen an earlier appeal (EAB Appeal No. 99-137) which was later agreed to by the Approval Holder. In consultation with the parties, the Board held a mediaiton on April 14, 2000, where a resolution was signed. On April 17, 2000, the Board issued a Report and Recommendations which was approved by the Minister on May 2, 2000.<br><br>Cite as: *Procyk* v. *Director, Northeast Boreal Region, Alberta Environment* re: *Dow Chemical Canada Inc.* (17 April 2000), Appeal No. 00-006 (A.E.A.B.). |
| **Appellant(s):** Mr. Victor and Ms. Elizabeth Chrapko, Ms. Julie Heath<br>**Operator:** R.V. Recreational Park Development Inc.<br>**Location**: Brosseau<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal Nos.** 00-008, 009 and 010 | On March 9, 2000, Mr. Victor and Ms. Elizabeth Chrapko and on March 10, 2000, Ms. Julie Heath filed Notices of Appeal with respect to *Water Act* Approval No. 00077677-00-00 issued to R.V. Recreational Park Development Inc. authorizing the exploration for groundwater at SE 17-056-11-W4. On March 30, 2000, the Board received a letter stating that the Appellants were withdrawing their appeal. On March 31, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Chrapko et al.* v. *Manager, Regional Support, Parkland Region, Alberta Environment re: R.V. Recreational Park Development Inc.* (31 March 2000), Appeal Nos. 00-008, 009 and 010 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: The Mah family,<br>**Operator**: County of Red Deer No. 23<br>**Location:** Red Deer<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-011 | On March 28, 2000, the Mah family filed a Notice of Appeal with respect to Approval No. 00075037-00-00 issued under the *Water Act* to the County of Red Deer No. 23 for the construction of storm water management works located in the NE 20-37-27-W4 McKenzie Industrial Park in Red Deer, Alberta. The Board scheduled a preliminary meeting on June 28, 2000 to deal with jurisdiction. On June 27, 2000, the Board received a letter from the parties advising that a settlement had been reached and therefore the appeal was withdrawn. On July 6, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Borsato* v. *Manager, Regional Support, Parkland Region, Alberta Environment,* re: *County of Red Deer No. 23* (6 July 2000), Appeal No. 00-011 (A.E.A.B.). |
| **Appellant(s)**: Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd.<br>**Operator**: Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd.<br>**Location:** Redwater<br>**Type of Appeal**: Decision<br>**Appeal No.** 00-012 | On April 7, 2000, Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd. respectively, filed a Notice of Appeal with respect to Environmental Protection Order No. 2000-03 issued to Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd.. On May 3 and 29, 2000, the parties were requested to provide their written representations to the Board by May 23 and June 2, 2000 respectively. No response was received. On June 5, 12 and 15, 2000, further attempts were made by the Board to contact the Appellants. No response was received. On June 20, 2000, the Board issued a Decision dismissing the Notice of Appeal for having failed to comply with the Board's written request under section 85 of the *Environmental Protection and Enhancement Act*.<br><br>Cite as: *Winterburn Oil and Gas Ltd. and Provost Petroleum Ltd.* v. *Manager, Enforcement and Monitoring, Alberta Environment.* (20 June 2000), Appeal No. 00-012 (A.E.A.B.). |
| **Appellant(s)**: North Springbank Water Co-op Limited<br>**Operator:** Emerald Bay Water and Sewer Co-op Ltd.<br>**Location**: M.D. of Rocky View<br>**Type of Appeal**: Active<br>**Appeal No.** 00-013 | On April 10, 2000, the Northbank Water Co-op Limited filed a Notice of Appeal with respect to Approval 18892-00-00 and Amending Approval No. 18892-00-03 issued to Emerald Bay Water and Sewer Co-op Ltd. for the construction and operation of a wastewater treatment plant and a wastewater collection system and a storm drainage system for the Emerald Bay Estates Development. The Board held a mediation meeting on June 9, 2000, in Calgary with Mr. Ron Peiluck as the presiding Board Member. At the mediation meeting an interim agreement was signed by the parties and agreed that a status report be submitted to the Board by September 15, 2000. On October 30, 2000, the Board wrote the parties requesting additional information, and proposed that a second mediation meeting take place which was scheduled for December 7, 2000. At the second mediation meeting, the parties concluded with an interim agreement which allocated roles, responsibilities and costs between the parties. Further to the second mediation meeting, the Board advised that it would be hearing from the North Springbank Water Co-op Limited by January 15, 2001 and requested the parties provide copies of documents to be exchanged as discussions progress. As of December 31, 2000, the Appeal is outstanding. |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Mr. Eugene P. Cyr<br>**Operator:** Town of Pincher Creek<br>**Location**: Pincher Creek<br>**Type of Appeal**: Report and Recommendations<br>**Appeal No.** 00-014 | On April 17, 2000, the Environmental Appeal Board received an Notice of Appeal via facsimile from Mr. Eugene P. Cyr, objecting to Approval No. 00074194-00 issued to the Town of Pincher Creek under the *Water Act* for the construction of stormwater drainage works in the SW 23-6-30-W4 discharging into Kettles Creek in Pincher Creek, Alberta. The Board held a mediation meeting on June 27, 2000. At the mediation, the parties agreed to schedule a second mediation which was held on July 18, 2000, in Pincher Creek whereby a resolution was reached. As a result, on August 1, 2000, the Board issued a Report and Recommendations to the Minister which he agreed to on August 28, 2000.<br><br>Cite as: *Eugene P. Cyr* v. *Regional Water Manager, Prairie Region, Alberta Environment* re: *Town of Pincher Creek* (1 August 2000), Appeal No. 00-014 (A.E.A.B.). |
| **Appellant(s)**: Villeneuve Sand and Gravel Alberta Ltd.<br>**Operator**: Inland Aggregates Limited<br>**Location:** Sturgeon County<br>**Type of Appeal:** Decision<br>**Appeal No.** 00-015 | On April 17, 2000, the Board received a Notice of Appeal from Villeneuve Sand and Gravel Alberta Ltd. with respect to Approval No. 72308-01-00 issued to Inland Aggregates Limited to open up, operate and reclaim a pit located on the West ½ of Section 29 and North East ¼ of Section 30 in Township 54, Range 26, West of the 4th Meridian in the County of Sturgeon for the production of sand and gravel. The Appellant claims to be the owner of the sand and gravel rights relating to the pit and has not given consent to the Approval Holder or the registered owner of the lands to open up, operate or reclaim the pit. On May 8, 2000, the Board identified a number of preliminary issues such as 1. Are the Barries ( the land owners) a proper party to this appeal and therefore able to bring a preliminary motion, 2. Is the Appellant "directly affected"?, 3. Does the Board have jurisdiction to hear this matter, particularly given that ownership of the sand and gravel appears to have been determined by the Court of Queen's Bench? and 4. Is the appeal frivolous or vexatious or without merit? Upon reviewing all written submissions, the Board advised that it is bound by the findings of Master Funduk and Madam Justice Hohnston, both of the Court of Queen's Bench. The Board held that 1. The Appellant is not directly affected and 2. The appeal is either frivolous and vexatious, and is surely without merit. The Board dismissed the appeal. On November 10, 2000, the Board issued a Decision to dismiss the Appeal.<br><br>Cite as: *Villeneuve Sand and Gravel Alberta Ltd.* v. *Director, Northeast Boreal Region Alberta Environment* re: *Inland Aggregates Limited* (10 November 2000), Appeal No. 00-015 (A.E.A.B.). |
| **Appellant(s):** Sunpine Forest Products Ltd.<br>**Operator**: Sunpine Forest Products Ltd.<br>**Location:** Rocky Mountain House<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-016 | On April 20, 2000, Sunpine Forest Products Ltd. filed a Notice of Appeal with respect to Licence No. 00081864-00-00 issued to them authorizing the diversion of 25,914 cubic metres of water annually from a well in SW 02-038-09-W5 for the purpose of Commercial (wood products) subject to conditions. The Appellant requested that "Conditions 6(a) and 6(b) be amended to state 'monthly readings' and 'monthly measurements' be taken, respectively". On June 1, 2000, the Appellant wrote to the Board withdrawing the appeal. On June 2, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Sunpine Forest Products Ltd.* v. *Manager, Regional Support, Parkland Region, Alberta Environment* (2 June 2000), Appeal No.; 00-016 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Bryam Industrial Services Limited *et al.*<br>**Operator**: Drayton Valley Regional Sanitary Landfill Authority<br>**Location:** Drayton Valley<br>**Type of Appeal:** (Active)<br>**Appeal Nos.** 00-017 and 00-018 | On April 25, 2000, Byram Industrial Services Ltd. (Byram), Dr. Rosalind Beacom and Dr. Michael Peyton and the Pembina Institute, filed Notices of Appeal with respect to Approval No. 47415-00-01 issued to the Drayton Valley Regional Sanitary Landfill Authority which authorizes the construction, operation and reclamation of the Drayton Valley Regional Landfill. In their letters of July 26 and 27, 2000, the parties advised the Board that they would be agreeable to participate in a mediation meeting/settlement conference. However, on August 11, 2000, the Board received a letter from Alberta Environment challenging the standing of the Pembina Institute and Byram Industrial Services Ltd. On August 15, 2000, the Board advised the parties that the issue of standing would be addressed if the mediation meeting was unsuccessful and the appeal went to a hearing and to file any objections to the Board by August 23, 2000. On August 21 and 22, 2000, Alberta Environment and Byram respectively, objected to the Board's recommendation. The Board decided to cancel the mediation meeting and hold a preliminary meeting on the issue of standing. On September 8, 2000, the Appellants advised the Board that they were actively engaged in informal mediation and that the Pembina Institute declined to make submissions and attend the preliminary meeting, however, if they did attend, it would be in the capacity of an agent or expert witness for the other Appellants. On September 27, 2000, the Appellants advised the Board that a terms of agreement had been reached between the Approval Holder, Byram and the Appellants and that after meeting with Alberta Environment, would consider withdrawing their appeals. As of December 31, 2000, this appeal is active as the parties negotiate an agreement. |
| **Appellant(s)**: ABL Ventures Ltd.<br>**Operator:** ABL Ventures Ltd.<br>**Location**: Strathmore<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal No.** 00-019 | On April 26, 2000, ABL Ventures Ltd. filed a Notice of Appeal with respect to Administrative Penalty No. 00/07-BOW-AP issued to ABL Ventures Ltd., as a result on an alleged contravention, by ABL Ventures Ltd., of section 59 of the *Environmental Protection and Enhancement Act*, with respect to the construction of an extension to the water distribution and wastewater collection systems at SE 4-23-24-25 W4. The Board scheduled a hearing for September 7, 2000, however, it was adjourned as Alberta Environment required time to access relevant documents. On September 7, 2000, the Board received a letter from Alberta Environment advising of Mr. Jay Litke's letter of September 6, 2000, withdrawing the Administrative Penalty. On September 15, 2000, the Appellant wrote to the Board withdrawing their appeal and as a result, the Board issued a Discontinuance of Proceedings on September 22, 2000.<br><br>Cite as: *ABL Ventures Ltd.* v. *Manager, Enforcement and Monitoring, Bow Region, Alberta Environment* (15 September 2000), Appeal No. 00-019 (A.E.A.B.). |
| **Appellant(s)** : Ms. Gwyn Baily<br>**Operator:** Sunset Harbour Developments Ltd.<br>**Location:** Pigeon Lake<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-020 | On April 25, 2000, Ms. Gwyn Baily filed a Notice of Appeal with respect to 00073615-00-00 issued under the *Water Act* to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. On May 1, 2000, the Board requested that the Appellant clarify the purpose of her letter and provide further information. After not receiving any information, the Board followed-up via a telephone conversation and further telephone message. On June 15, 2000, the Appellant wrote to the Board withdrawing her appeal due to other commitments. On July 6, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Baily* v. *Manager, Regional Support, Parkland Region, Alberta Environment,* re: *Sunset Harbour Developments Ltd.* (6 July 2000), Appeal No. 00-020 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Frank Cowles, Mr Ernie Semeniuk, Mr. Kevin Fenemor, Mr. John Ludwig on behalf of the Summer Villages of Sundance Beach and Golden Days, Mr. John Turgeon, Mr. Marcel Normandeau, Dr. Larry Eberlein, Ms. Jane Nagy and Ms. Roberta McLaughlin on behalf of herself, Mr. Gerald McLaughlin, Mr. Brinton McLaughlin and Ms. Jennifer Binnendyke<br>**Operator:** Sunset Harbour Developments Ltd.<br>**Location**: Pigeon Lake<br>**Type of Appeal**: Report and Recommendations<br>**Appeal Nos.** 00-021-023, 00-025-027, 00-032, and 00-036 | Between May 5 and 24, 2000, Notices of Appeal were received from Mr. Frank Cowles, Mr Ernie Semeniuk, Mr. Kevin Fenemor, Mr. John Ludwig on behalf of the Summer Villages of Sundance Beach and Golden Days, Mr. John Turgeon, Mr. Marcel Normandeau, Dr. Larry Eberlein, Ms. Jane Nagy and Ms. Roberta McLaughlin on behalf of herself, Mr. Gerald McLaughlin, Mr. Brinton McLaughlin and Ms. Jennifer Binnendyke with respect to Approval 00073615-00-00 issued under the *Water Act* to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. A two-day mediation meeting took place on September 19 and 21, 2000, in Edmonton and a resolution was reached. On October 5, 2000, the Board issued a Report and Recommendations advising the Minister to vary the Approval in accordance with the resolution agreed to by the parties, which he agreed to on October 18, 2000.<br><br>Cite as: *Cowles et al.* v. *Manager, Regional Support, Parkland Region, Alberta Environment*, re: *Sunset Harbour Developments Ltd.* (5 October 2000), Appeal Nos. 00-021-023, 00-025-027, 00-32, and 00-036 (A.E.A.B.). |
| **Appellant(s)**: Alberta Fish and Game Association<br>**Operator**: Sunset Harbour Developments Ltd.<br>**Location**: Pigeon Lake<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal No.** 00-024 | On May 9, 2000, the Alberta Fish and Game Association (AFGA) filed a Notice of Appeal with respect to Approval No. 00073615-00-00 issued under the *Water Act* to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. A mediation meeting took place on September 19 and 21, 2000, at the Board's office. On September 21, 2000, during the mediation meeting, the Appellant withdrew from the mediation proceedings as the AFGA intended to pursue this matter with the Department of Fisheries and Oceans. On October 17, 2000, the Board received a letter from the Appellant withdrawing their appeal. On October 20, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Alberta Fish and Game Association* v. *Manager, Regional Support, Parkland Region, Alberta Environment*, re: *Sunset Harbour Developments Ltd.* (20 October 2000), Appeal No. 00-024 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Westlock County<br>**Operator:** Lafarge Canada<br>**Location:** Westlock<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-028 | On May 10, 2000, the County of Westlock filed a Notice of Appeal with respect to Approval No. 15084-01-00 issued to Lafarge Canada Inc. for the opening up, operation and reclamation of a sand pit on SE 18-59-23-W4. On July 5, 2000, the Board received a letter from the Approval Holder advising that the parties had reached a satisfactory arrangement. On July 12, 2000, the Appellant wrote to the Board withdrawing their appeal and on July 18, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Westlock County* v. *Director, Northern East Slopes Region, Alberta Environment,* re: *Lafarge Canada Inc.* (18 July 2000), Appeal No. 00-028 (A.E.A.B.). |
| **Appellant(s):** Butte Action Committee and the Town of Eckville<br>**Operator:** Crestar Energy<br>**Location:** Eckville<br>**Type of Appeal:** (Active)<br>**Appeal Nos.** 00-029 and 00-060 | On May 23 and August 15, 2000, the Butte Action Committee and the Town of Eckville respectively, filed Notices of Appeal with respect to Approval No. 00077822-00-00 issued under the *Water Act* to Crestar Energy to explore for groundwater in relation to two pre-existing groundwater wells – Well 1966-06-27-01 and Well 1973-11-26-02 both located on NW 28- 39- 3- W 5 near Eckville, Alberta. As of December 31, 2000, the Board is receiving submissions from the parties as to whether the appeal is moot given the circumstances under which all the work pertaining to the Approval has already been completed. |
| **Appellant(s):** Mr. Ron Bakken<br>**Operator:** Sunset Harbour Developments Ltd.<br>**Location:** Pigeon Lake<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-030 | On May 10, 2000, Mr. Ron Bakken filed a Notice of Appeal with respect to Approval No. 00073615-00-00 issued under the *Water Act* to Sunset Harbour Developments Ltd. to construct a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. A letter was received by the Board on June 7, 2000 indicating that the Appellant was withdrawing his appeal and on June 14, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Bakken* v. *Manager, Regional Support, Parkland Region, Alberta Environment,* re: *Sunset Harbour Developments Ltd.* (14 June 2000), Appeal No. 00-030 (A.E.A.B.). |
| **Appellant(s):** Mr. John Sanders<br>**Operator:** Sunset Harbour Developments Ltd.<br>**Location:** Pigeon Lake<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-031 | On May 13, 2000, Mr. John Sanders wrote to the Board appealing Approval No. 00073615-00-00 issued under the *Water Act* to Sunset Harbour Developments Ltd. for the construction of a marina and stormwater management works at Pigeon Lake in the SW 12-47-02-W5 subject to certain conditions. On May 16, 2000, the Board requested that Mr. Sanders clarify the purpose of his letter and provide further information in order to proceed with the request for an appeal. On June 16, 2000, Mr. Sanders faxed a letter to the Board advising that he was withdrawing his appeal. On July 6, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *Sanders* v. *Manager, Regional Support, Parkland Region, Alberta Environment,* re: *Sunset Harbour Developments Ltd.* (6 July 2000), Appeal No. 00-031 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Genesis Exploration Ltd.<br>**Operator**: Genesis Exploration Ltd.<br>**Location**: Valleyview<br>**Type of Appeal:** (Active)<br>**Appeal No.** 00-033 | On May 18, 2000, Genesis Exploration Ltd filed a Notice of Appeal with respect to the refusal of Alberta Environment to issue Approval for the purpose of constructing a petroleum wellsite at 09-24-069-23-W5. On May 29, 2000, the Appellant wrote to the Board indicating that the application they made "was for the re-entry of an existing suspended well and not the construction of a new well", and requested a site visit to resolve the matter. On June 5, 2000, Alberta Environment advised the Board that the Appellants would be contacted to coordinate a site visit. After reviewing requests by Alberta Environment and the Appellants, on December 21, 2000, the Board advised that the appeal would be placed in abeyance until May 1, 2001 due to the site assessment and construction plans. As of December 31, 2000, the appeal is held in abeyance. |
| **Appellant(s):** Elkana Resident's Water Co-Operative Limited **Operator**: Elkana Resident's Water Co-Operative Limited<br>**Location:** M.D. of Rock View No. 44<br>**Type of Appeal**: Decision<br>**Appeal No.** 00-034 | On January 7, 2000, Alberta Environment issued Amending Approval No. 498410-00-01 modifying Approval No. 498412-00-00 authorizing the construction, operation and reclamation of a Class I water treatment plant and distribution system for the Elkana Estates subdivision in the M.D. of Rocky View No. 44. On May 16, 2000, the Appellant filed a Notice of Appeal requesting an amendment to the date for the pipeline construction stated in Section 3.2, Condition 3.2.1 of the Amending Approval. On June 1, 2000, the Board received a letter from Alberta Environment requesting the appeal be dismissed as the Notice of Appeal was filed outside the 30-day time limit. On June 28, 2000, the Appellant wrote to the Board advising that they wished to withdraw the appeal as the Co-op wanted to pursue alternate avenues with Alberta Environment to get an extension of the water system construction deadline. In the same letter, the Appellant advised that they may wish to re-initiate the appeal process at a later date. On July 7, 2000, the Board responded by advising the Appellants that there are no provisions in the legislation to "re-initiate" an appeal once the Board has been advised in writing of a withdrawal. On July 20, 2000, the Board received a further letter from the Appellants requesting an extension to the appeal due to extenuating circumstances related to water in Bragg Creek and ongoing studies. On August 28, 2000, the Board went on to propose a schedule for written submissions for the parties. Once the submissions were received and reviewed, the Board issued a Decision to dismiss the appeal on November 10, 2000.<br><br>Cite as: *Elkana Resident's Water Co-Operative Limited* v. *Director, Bow Region, Alberta Environment* (10 November 2000), Appeal No. 00-034 (A.E.A.B.). |
| **Appellant(s):** Mr. Ken McEachren<br>**Operator:** Mr. Allen Pukanski<br>**Location:** Edmonton<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-037 | On May 26, 2000, Mr. Ken McEachren filed a Notice of Appeal with respect to Approval No. 00083208-00-00 issued under the *Water Act* to Mr. Allen Pukanski for the construction of a channel re-alignment and installation of a culvert on an unnamed watercourse, situated at NE 14-051-25-W4. On June 7, 2000, the Board received a letter from the Appellant withdrawing his appeal. On June 26, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as: *McEachren* v. *Manager, Regional Support, Northeast Boreal Region, Alberta Environment*, re: *Allen Pukanski* (26 June 2000), Appeal No. 00-037 (A.E.A.B.). |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s):** Siksika First Nation, Mr. Clint Blyth<br>**Operator**: Town of Strathmore<br>**Location:** Strathmore<br>**Type of Appeal**: (Active)<br>**Appeal Nos.** 00-038, 040 & 041 | On May 23, June 16 and 20, 2000, the Environmental Appeal Board received Notices of Appeal from Mr. Don Knight, Ms. Maria Big Snake on behalf of the Siksika First Nation and Mr. Clinton Blyth respectively with respect to Amending Approval No. 1190-01-04. The Amending Approval is for the operation of a Class I wastewater treatment plant (wastewater stabilization ponds) and a Class II wastewater collection system and a storm drainage system for the Town of Strathmore. On July 17, 2000, Mr. Don Knight wrote to the Board advising that after meeting with the Town of Strathmore and Epcor most of his concerns had been met and that he would be releasing his appeal. On September 21, 2000, the Board issued a Discontinuance of Proceedings<br><br>(Cite as: *Knight v. Director, Bow Region, Alberta Environment, re: Town of Strathmore*).<br><br>On August 10, 2000, the Board wrote to the remaining parties advising that since the Approval currently held by the Town of Strathmore was still active and the Town had applied for a new approval to address longer-term sewage effluent discharges, the Appellant's should file a Statement of Concern. Given the new application, the Board also asked the parties if they wished to continue with the appeal process. On August 17 and 22, 2000, the parties confirmed their willingness to participate. In consultation with the parties, on December 15, 2000, the Board advised that it would convene a hearing on January 17 and 18, 2001. As of December 31, 2000, the appeal is ongoing. |
| **Appellant(s):** Mr. Jurgen Preugschas<br>**Operator:** Pigs R Us Inc.<br>**Location**: Mayerthorpe<br>**Type of Appeal:** (Active)<br>**Appeal No.** 00-039 | On May 26, 2000, Mr. Jurgen Preugschas filed a Notice of Appeal with respect to Water Licence Nos. 00082554-00-00 and 000825613-00-00 issued under the *Water Act* to Pigs R Us Inc., for the diversion of water subject to certain conditions. On June 19, 2000, the Board requested additional information to supplement the appeal which was received on September 8, 2000. At the request of the parties, the Appeal was held in abeyance from September 15, 2000 to February 20, 2001. As of December 31, 2000, the appeal is held in abeyance. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Steve and Wendy Mazure, Ms. Maxine Dubuc, Mr. Terry Fisher, Mr. Barry and Ms. Lana Love, Mr. Carl Anderson, Mr. Henry Hays, Ms. Ina Fisher, Mr. Rae Fisher, Mr. Jack Potter, Ms. Florence Koughnett, Ms. Marjorie Korth, Mr. Joe and Ms. Pearl Bebee, Mr. Greg and Ms. Jolie Schachtschneider<br>**Operator**: Taiwan Sugar Corporation<br>**Location**: near Hardisty<br>**Type of Appeal**: (Active)<br>**Appeal Nos.** 0-042-046, 00-048, 053, 056, 00-057 | On July 6, 7, 10, 11, 13, 17 18, 19, 24, 31, September 19, 2000, the Environmental Appeal Board received Notices of Appeal from Mr. Steve and Wendy Mazure, Ms. Maxine Dubuc, Mr. Terry Fisher, Mr. Barry and Ms. Lana Love, Mr. Carl Anderson, Ms. Ina Fisher, Mr. Rae Fisher, Mr. Henry Hays, Mr. Jack Potter, Ms. Florence Koughnett, Ms. Marjorie Korth, Mr. Joe and Ms. Pearl Bebee, Mr. Greg and Ms. Jolie Schachtschneider respectively with respect to Approval No. 00081681-00-00 issued under the *Water Act* to the Taiwan Sugar Corporation for the purpose of exploring for groundwater near Hardisty, Alberta. On September 6, 2000, the Board wrote to the parties with respect to procedural issues and if they wished to participate in a mediation meeting. As most of the Appellants were involved in a corresponding appeal with respect to a Developmental Appeal Board hearing, they requested that a mediation meeting be held well into November. In consultation with the parties, the Board advised that the appeals would be held in abeyance pending the outcome of the Development Appeal Board hearing and also noted that submissions with respect to the issue of timing and deadlines would need to be submitted to the Board once the aforementioned hearing had taken place. As of December 31, 2000, the Appeals are outstanding. |
| **Appellant(s)**: Siderius Dairy Ltd.<br>**Operator:** Siderius Dairy Ltd.<br>**Location:** Millet,<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-047 | On July 11, 2000, Siderius Dairy Ltd. filed a Notice of Appeal with respect to Approval No. 00082375-00-00 issued under the *Water Act* to Siderius Dairy Ltd. authorizing the dairy to explore for groundwater subject to certain conditions. On August 1, 2000, the Appellant wrote to the Board advising that dealing with neighbours and Agra Earth & Environmental about the Approval and therefore, the appeal was held in abeyance until September 1, 2000. On August 31, 2000, the Appellant wrote to the Board advising that it was no longer having difficulties complying with the conditions imposed on by the Approval. On September 8, 2000, the Appellant withdrew the appeal and as a result, the Board issued a Discontinuance of Proceedings on September 21, 2000.<br><br>Cite as: *Siderius Dairy Ltd.* v. *Manager, Regional Support, Parkland Region, Alberta Environment* (21 September 2000), Appeal No. 00-047 (A.E.A.B.). |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Don and Ms. Marjorie Bower<br>**Operator** : Mr. Don and Ms. Marjorie Bower<br>**Location**: Red Deer<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-054 | On July 7, 2000, Mr. Don and Ms. Marjorie Bower filed a Notice of Appeal with respect to the refusal of Alberta Environment to issue an approval under the *Water Act* to the Appellants. In consultation with the parties, the Board advised that the appeal would be held in abeyance until September 27 and again until October 16, 2000. On October 27, 2000, the Appellants wrote to the Board advising that Alberta Environment did not wish to hold a mediation meeting. On November 22, 2000. the Board wrote to the parties advising that a preliminary meeting via written submissions would be held. On December 5 and 19, 2000, the parties submitted their submissions. As of December 31, 2000, the appeal is ongoing. |
| **Appellant(s)**: Mr. Don Kadutski<br>**Operator**: Ranger Oil Limited<br>**Location**: Elk Point<br>**Type of Appeal**: (Active)<br>**Appeal No.**<br>00-055 | On July 17, 2000, Mr. Don Kadutski filed a Notice of Appeal with respect to Approval No. 00082533-00-00 issued under the *Water Act* to Ranger Oil Limited authorizing the exploration of groundwater. On September 12, 2000,, the Appellant requested the file be held in abeyance pending a meeting between Mr. Kadutski, Alberta Environment and Canadian Natural Resources Ltd. The meeting was held on October 2, 2000, and on October 10, 2000, the Appellant requested the file be held in abeyance again. On December 15, 2000, the Board wrote to the parties acknowledging a telephone conversation Board staff had with Mr. O'Ferrall with respect to holding the appeal in abeyance until March 31, 2001, as the Appellant is pursuing this matter with the Energy and Utilities Board. As of December 31, 2000, the appeal is being held in abeyance. |
| **Appellant(s)**: Mr. Alan and Ms. Mary Ellen Young<br>**Operator**: Mr. Alan and Ms. Mary Ellen Young<br>**Location**: Calgary<br>**Type of Appeal**: Discontinuance of Proceedings<br>**Appeal No.** 00-058 | On August 2, 2000, Mr. Alan and Ms. Mary Ellen Young filed a Notice of Appeal with respect to Enforcement Order No. 2000-WA-01, issued under the *Water Act* for the construction of erosion control works, without an approval. The works were constructed on the Elbow River, at or near Calgary, Alberta. On August 11 and 31, 2000, the Appellants' requested that the appeal be held in abeyance pending a possible resolution. On December 1, 2000, the Board received a letter from Alberta Environment, enclosing a letter from Alberta Environment to the Appellants stating that the Enforcement Order had been complied with. On December 7, 2000, the Board was advised by the Appellants' legal counsel that Alberta Environment closed the Enforcement Order and therefore, the Appellants would no longer be proceeding with the appeal. On December 11, 2000, the Board issued a Discontinuance of Proceedings.<br><br>Cite as *Young* v. *Director, Bow Region, Alberta Environment* (11 December 2000), Appeal No. 00-058(A.E.A.B.). |
| **Appellant(s)**: Westridge Water Supply Ltd.<br>**Operator**: Westridge Water Supply Ltd.<br>**Location**: Calgary<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-059 | On August 15, 2000, the Environmental Appeal Board received a Notice of Appeal from Westridge Water Supply Ltd. objecting to a number of terms and conditions of Preliminary Certificate 00081364-00-00 issued under the *Water Act*. The Preliminary Certificate states that the Appellant will receive a licence, upon compliance with certain conditions, to divert up to 787,101 cubic metres of water annually with the source of water supply being the Elbow River in NE 6-24-2-W5, through two production wells identified as Production Well No. 1 and Production Well No. 2 with Priority No. 199-09-09-002. As a threshold matter, the Board must decide whether this appeal can continue, given the Appellant has sold its rights under the Preliminary Certificate to a successor company, and Alberta Environment formally transferred the Preliminary Certificate to that successor. As of December 31, 2000, the appeal is active as the Board determines the threshold issues. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Darren and Mrs. Daphne Fisher<br>**Operator**: Taiwan Sugar Corporation<br>**Location**: Hardisty<br>**Type of Appeal**: Decision<br>**Appeal No.** 00-061 | On September 19, 2000, Mrs. Daphne Fisher on behalf of herself and Mr. Darren Fisher filed a Notice of Appeal with respect to Approval No. 00081681-00-00 issued under the *Water Act* (the "Act") to the Taiwan Sugar Corporation for the purpose of exploring for groundwater near Hardisty, Alberta. The Notice of Appeal filed by the Appellants is one of 14 Notices of Appeal that the Board received in relation to the Approval. The other 13 appeals were filed between July 6 and 31, 2000. Given that the appeal was submitted outside the specified timeline of the Act, on September 27, 2000, the Board requested the Appellants explain the reasons for the delay. On October 5, 2000, the Board received a letter from the Appellants advising that the Notice of Appeal was completed but due to a misunderstanding, failed to be faxed in time. The Board in turn found this to be an insufficient reason to extend the filing deadline. The Board advised the Appellants that as stated in the its letter of September 27, 2000, the Appellants may be able to request intervenor status if the appeal were to proceed to a hearing. On November 14, 2000, the Board issued a Decision dismissing the Notice of Appeal.<br><br>Cite as: *Fisher* v. *Director, Parkland Region, Natural Resource Service, Alberta Environment* re: *Taiwan Sugar Corporation* (14 November 2000), Appeal No. 00-061 (A.E.A.B.). |
| **Appellant(s):** Mr. William S. Fedoruk<br>**Operator:** Canadian Natural Resources Limited<br>**Location:** Vegreville<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-062 | On September 12, 2000, Mr. William S. Fedoruk filed a Notice of Appeal with respect to Reclamation Certificate No. 38902 issued to Canadian Natural Resources Limited ("CNRL"), certifying that the surface of the land held by CNRL within NE 9-54-15-W4, complies with the conservation and reclamation requirements of Part 5 of the *Environmental Protection and Enhancement Act*. In response to the Board's letter of November 3, 2001, the parties expressed a willingness to participate in a mediation meeting. On the same day, the Appellant spoke with Board staff requesting the appeal be held in abeyance until May 1, 2001. As of December 31, 2000, the appeal is outstanding. |
| **Appellant(s):** Mr. Wayne Watson<br>**Operator:** Danoil Energy Ltd. and Envirosoil Land Management Ltd.<br>**Location**: Chauvin<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-063 | On October 3, 2000, Mr. Wayne Watson filed a Notice of Appeal which was received by the Board on October 10, 2000, with respect to Reclamation Certificate No. 39819 issued to Danoil Energy Ltd ("Danoil") for land NE 25-41-2-W4. Danoil advised that they preferred a hearing rather than a mediation meeting. However, on November 21 and 30, 2000, Alberta Environment and Danoil respectively, advised the Board they would be agreeable to mediation. On December 4, 2000, the Board wrote to the parties advising that a mediation meeting would be postponed to May 2001 in order to evaluate the site and facts regarding vegetation. On December 19, 2000, the Board wrote to the parties advising that the appeal would be held in abeyance pending the site visit in May 2001, as long as none of the parties objected. As of December 31, 2000, the appeal is being held in abeyance. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Ken and Ms. Marie Smulski, trustees of the estate of Mr. John Smulski<br>**Operator:** Corridor Pipeline Limited<br>**Location:** Strathcona County<br>**Type of Appeal:** Discontinuance of Proceedings<br>**Appeal No.** 00-064 | On October 13, 2000, Mr. Ken and Ms. Marie Smulski, trustees of the estate of Mr. John Smulski, filed an appeal with respect to a Letter of Authorization issued pursuant to Approval No. 69136-00-00 to Corridor Pipeline Limited to undertake the construction and reclamation of the Redwater River and North Saskatchewan River watercourse crossings with certain conditions. On October 17, 2000, legal counsel for the Appellants wrote a letter to the Board withdrawing their appeal. On October 18, 2000, the Board issued a Discontinuance of Proceedings.<br><br>*Cite as: Smulski* v. *Director, Bow Region, Alberta Environment,* re: *Corridor Pipeline Limited* (18 October 2000), Appeal No. 00-064 (A.E.A.B.). |
| **Appellant(s):** Ms. Bertha and Mr. Neil Martin<br>**Operator**: Ms. Bertha and Mr. Neil Martin<br>**Location:** Athabasca,<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-065 | On October 30, 2000, Ms. Bertha and Mr. Neil Martin filed a Notice of Appeal with respect to Enforcement Order No. 2000-WA-02 issued to the Martins with respect to an alleged contravention of section 36(1) of the *Water Act* for depositing sand on the bed shore of Island Lake, including on the reserve in front of the property without an approval. On December 12, 2000, Alberta Environment advised that it did not wish to participate in a mediation meeting and supplied available dates for a hearing. As of December 31, 2000, a hearing has yet to be scheduled. |
| **Appellant(s)**Fas Gas Oil Ltd.<br>**Operator**: Fas Gas Oil Ltd.<br>**Location**: Red Deer<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-066 | On November 1, 2000, Fas Gas Oil Ltd. filed a Notice of Appeal with respect to Environmental Protection Order No. 2000-09 issued to Fas Gas Oil Ltd. and Fas Gas Realty Ltd. On November 24, 2000, the Board advised the parties that it would hold a mediation meeting on December 5, 2000, in Red Deer with Mr. Ron Peiluck as the presiding Board Member. On November 27, 2000, Alberta Environment wrote to the Board requesting the appeal be held in abeyance until January 19, 2001. As of December 31,2000, in consultation with the parties, the Board granted the request for abeyance to January 19, 2001. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**:McColl-Frontenac Inc.<br>**Operator**: McColl-Frontenac Inc.<br>**Location:** Calgary<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-067 | On November 6, 2000, McColl-Frontenac Inc. filed a Notice of Appeal with respect to Enforcement Order No. 2000-08 issued to the Appellant on November 2, 2000. In response to the Board's letter of November 15, 2000, where the Board requested the parties indicate if they wished to proceed with mediation, Alberta Environment wrote to the Board on November 20, 2000, indicating that mediation at this time would be unproductive and that a meeting of counsel to review the issues to he heard by the Board should take place first. On December 5, 2000, Alberta Environment wrote to the Board advising that a meeting would take place on December 12, 2000. The meeting was then rescheduled to January 17, 2001 as advised by the Appellant on December 12, 2000. On December 18, 2000, the Board wrote to the parties advising that the appeal would be held in abeyance until January 19, 2001. As of December 31, 2000, the appeal is in abeyance. |
| **Appellant(s)**: Mr. Robert and Mrs. Christine Lederer and Mr. Pat and Mrs. Rita Chant<br>**Operator**: Spruce Valley Ranch Ltd.<br>**Location**: Millarville<br>**Type of Appeal:** (Active)<br>**Appeal Nos.** 00-068 and 00-069 | On November 9, 2000, Mr. Robert and Mrs. Christine Lederer and Mr. Pat and Mrs. Rita Chant filed Notices of Appeal with respect to Preliminary Certificate 00079765-00-00 issued under the *Water Act* to Spruce Valley Ranch Ltd.. The Certificate states that the Approval Holder will receive a licence to divert 59,018 cubic metres of water annually at a maximum rate of 0.0037 cubic metres per second from the Coulee Tributary of Threepoint Creek in the NW 2-21-3-W5 with priority number 1999-09-7-003 upon compliance with certain conditions. In their Notices of Appeal, the Appellants expressed concern regarding the scope of the planned project, the nature of the water storage reservoir, and the downstream effects of the construction on the unnamed creek. On December 5, 2000, the Alberta Environment wrote to the Board making a motion to dismiss appeals as the concerns raised were not contained in the Certificate and they wanted to know the "directly affected" status of the Appellants. As of December 31, 2000, the Board is receiving submissions on the directly effected status of the Appellants. |

APPENDIX D

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Mr. Elgar Newsham<br>**Operator:** Mr. Elgar Newsham<br>**Location:** Innisfail<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-070 | On November 9, 2000, Mr. Elgar Newsham filed a Notice of Appeal with respect to Approval No. 00141557-00-00 issued under the *Water Act*, to the Appellant for the exploration of groundwater subject to certain conditions. On December 4, 2000, the Board received a letter from Alberta Environment advising that it would be cancelling the Approval issued to Mr. Newsham as the Appellant applied for a Traditional Agriculture Use Registration. As of December 31, 2000, the appeal is active as the Board seeks to determine the intention of the Appellant. |
| **Appellant(s):** Mr. Chet Gilmore<br>**Operator:** Mr. Chet Gilmore<br>**Location:** near Athabasca<br>**Type of Appeal:** (Active)<br>**Appeal No.** 00-071 | On November 23, 2000, Mr. Chet Gilmore filed a Notice of Appeal with respect to Enforcement Order No. 2000-WA-05 issued to the Appellant for the construction of a sand walkway on the bed and shore of Island Lake, within the SW 2-68-24-W4, without an approval. On December 22, 2000, the Board wrote to the parties and requested clarification on time limits and specific statements included in the Appellant's Notice of Appeal. The letter also sought clarification from Alberta Environment as to whether they intended to file a formal motion challenging the jurisdictional validity of the appeal due to an apparent late filing. As of December 31, 2000, the Board is awaiting responses from the parties. |
| **Appellant(s)**: Mr. Gary and Ms. Cathy Fitzgerald<br>**Operator**: Mr. Gary and Ms. Cathy Fitzgerald<br>**Location**: near Athabasca<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-072 | On November 23, 2000, Mr. Gary and Ms. Cathy Fitzgerald filed a Notice of Appeal and request for a Stay with respect to Enforcement Order No. 2000-WA-05 issued to the Appellant for the construction of a sand walkway on the bed and shore of Island Lake, within the Southwest quarter of Section 2, Township 68, Range 24, West of the 4th Meridian, without an approval. On November 30, 2001, Alberta Environment advised they would not exercise the enforcement order while matters are under appeal, without prior notice to the Board. On December 22, 2000, the Board wrote to the parties in response to a letter dated December 12, 2000, from Alberta Environment. The Board's letter acknowledged receipt of all related correspondence in relation to the appeal and requested clarification on time limits and specific statements included in the Appellant's Notice of Appeal. The letter also sought clarification from Alberta Environment as to whether it intended to file a formal motion challenging the jurisdictional validity of the appeal due to an apparent late filing. As of January 1, 2001 the Board is awaiting responses from the parties. |

| Appellant(s) | Subject |
|---|---|
| **Appellant(s)**: Metis Nation of Alberta Zone II Regional Council<br>**Operator**: AEC Pipelines Ltd.<br>**Location**: near Cold Lake<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-073 | This decision deals with two Notices of Appeal filed by the Metis Nation of Alberta Zone II Regional Council in relation to AEC Pipelines Ltd.'s Foster Creek Pipeline Project near Cold Lake. The question before the Board is the Appellant's ability to file their Notices of Appeal. On August 8, 2000, the Appellants wrote to Alberta Environment to file a Statement of Concern in relation to the project and advised, among other things, that they were prime stakeholders within the region. On November 15, 2000, Alberta Environment responded and advised the Appellants that their letter could not be considered a "formal" Statement of Concern as there was no indication of use of the lands in the Cold Lake Air Weapons Range by the Metis given the lands are restricted by the Department of National Defence. On November 16, 2000, Alberta Environment issued Approval No. 136570-00-00 for the project. On December 14, 2000, the Board received a Notice of filed by Mr. Henry Desjarlais, President of the Metis Nation of Alberta Zone II Regional Council requesting the Board order Alberta Environment to accept the Statement of Concern. As of December 31, 2000, the appeal is active as the Board determines the status of the parties. |
| **Appellant(s):** Ms. Gwen Bailey, Enmax Energy Corporation, Mr. Nick Zon, Mr. Blair Carmicheal, Ms. Donna Thomas and the Summer Village of Kapasiwin, Mr. James Paron, the Village of Wabamun, Mr. David Doull, Lake Wabamun Enhancement and Protection Association, the Summer Village of Point Allison<br>**Operator:** TransAlta Utilities Corporation<br>**Location**: Village of Wabamun<br>**Type of Appeal:** (Active)<br>**Appeal Nos.** 00-074, 075, 077, 078, 01-001-005 and 011 | On December 28, 2000, and January 2, 3, 4, and 10, 2001, the Environmental Appeal Board received Notices of Appeal from the following parties (collectively the "Appellants"), Mr. K.F. Bailey on behalf of Ms. Gwen Bailey and the Summer Village of Point Alison; Mr. Steven J. Ferner on behalf of Enmax Energy Corporation ("Enmax"); Mr. Nick Zon; Mr. Blair Carmichael; Mr. D.R. Thomas on behalf of Ms. Donna Thomas and the Summer Village of Kapasiwin; Mr. I. Samuel Kravinchuk on behalf of Mr. James Paron; His Worship Mayor William Purdy on behalf of the Village of Wabamun; Mr. David Doull; Mr. F. Locke Boros on behalf of the Lake Wabamun Enhancement and Protection Association ("LWEPA"); and His Worship Mayor C. Gordon Wilson, again, on behalf of the Summer Village of Point Alison with respect to the issuance of Approval 10323-02-00 to TransAlta for the operation and reclamation of the Wabamun Thermal Electric Power Plant, near the Village of Wabamun. As of December 31, 2000, the appeals are active as the Board prepares to set a preliminary hearing. |
| **Appellant(s):** Mr. Perry, Ms. June and Ms. Marie Ellis,<br>**Operator:** Village of Standard.,<br>**Location:** Standard<br>**Type of Appeal**: (Active)<br>**Appeal No.** 00-076 | On December 29, 2000, Mr. Perry, Ms. June and Ms. Marie Ellis filed a Notice of Appeal with respect to Approval No. 00082525-00-00 issued to the Village of Standard. The Approval authorized the Operator to maintain existing works, upgrade the water collection system, replace a water supply line and conduct spring supply testing and examinations in SE 21-25-22W4 subject to conditions in the Approval. As of December 31, 2000, this appeal is ongoing. |

# APPENDIX 'E'

# Appeal Type & Appellant Name

APPENDIX E

# APPEALS RELATING TO:

## 1) ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT APPROVALS

| | |
|---|---|
| **00-001** | ADM Agri-Industries Ltd./Amending Approval No. 144-01-01 (Joe and Patricia Rook)<br>(Combined with 99-012-126) |
| **00-002** | ADM Agri-Industries Ltd./Amending Approval No. 144-01-01 (Roy Haugen and Concerned Citizens of West Central Lloydminster)<br>(Combined with 99-012-126) |
| **00-004** | Ainsworth Lumber Co. Ltd./Amending Approval No. 1622-00-06 |
| **00-005** | Footner Forest Products Ltd./Approval No. 76335-00-01 |
| **00-006** | Dow Chemical Canada Inc./Approval No. 236-01-00 (William and Susan Procyk) |
| **00-013** | Emerald Bay Water and Sewer Co-op Ltd./Approval No. 18892-00-00 and Amending Approval No. 18892-00-03 (North Spring Bank Water Co-op Ltd.) |
| **00-015** | Inland Aggregates Limited/Approval No. 72308-01-00 (Villeneuve Sand & Gravel Alberta Ltd.) |
| **00-017** | Drayton Valley Regional Sanitary Landfill Authority/Amending Approval No. 47415-00-01 (Byram Industrial Services Ltd.) |
| **00-018** | Drayton Valley Regional Sanitary Landfill Authority/Amending Approval No. 47415-00-01 (Dr. Rosalind Beacom, Dr. Michael Peyton, and the Pembina Institute) |
| **00-028** | Lafarge Canada/Approval 15084-01-00 (Westlock County) |
| **00-034** | Elkana Residents Water Co-operative/ Approval 49841-00-01 |
| **00-038** | Town of Strathmore/Amending Approval 1190-01-04 (Don Knight) |
| **00-040** | Town of Strathmore/Amending Approval 1190-01-04 (Siksika First Nation) |
| **00-041** | Town of Strathmore/Amending Approval 1190-01-04 (Clint Blyth) |

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| **00-064** | Corridor Pipeline Limited/Approval 69136-00-00 (Ken and Marie Smulski) |
| **00-073** | AEC Pipelines Ltd./Approval 136570-00-00 (Henry Desjarlais, President, Metis Nation of Alberta, Zone II Regional Council) |
| **00-074** | TransAlta Utilities Corporation/Approval 10323-02-00 (Gwen Bailey and Summer Village of Point Alison) |
| **00-075** | TransAlta Utilities Corporation/Approval 10323-02-00 (ENMAX Energy Corporation) |
| **00-077** | TransAlta Utilities Corporation/Approval 10323-02-00 (Nick Zon) |
| **00-078** | TransAlta Utilities Corporation/Approval 10323-02-00 (Blair Carmichael) |

## 2) *WATER ACT* APPROVALS, PRELIMINARY CERTIFICATES AND APPLICATIONS

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|---|---|
| **00-008** | R.V. Recreational Park Development Incorporated/ Approval 00077677-00-00 (Victor Chrapko) |
| **00-009** | R.V. Recreational Park Development Incorporated/ Approval 00077677-00-00 (Elizabeth Chrapko) |
| **00-010** | R.V. Recreational Park Development Incorporated/ Approval 00077677-00-00(Julie Heath) |
| **00-011** | Red Deer County/Approval No. 00075037-00-00/ (Eva Mah Borsato) |
| **00-014** | Town of Pincher Creek/Approval No. 00074194-00-00 (Eugene Cyr) |
| **00-016** | Sunpine Forest Products/Approval No. 00081864-00-00 |
| **00-020** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Gwyn Bailey) |
| **00-021** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Frank Cowles) |
| **00-022** | Sunset Harbour Developments Ltd./ Approval 00073615-00 (Ernie Semniuk) |
| **00-023** | Sunset Harbour Developments Ltd./ Approval 00073615-00 (Kevin Fenemor) |
| **00-024** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Alberta Fish and Game Association) |

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| **00-025** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Summer Village of Sundance Beach) |
| **00-026** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Summer Village of Golden Days) |
| **00-027** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Turgeon, Normandeau and Eberlien) |
| **00-029** | Crestar Energy/Approval 00077822-00 (Butte Action Committee) |
| **00-030** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Ron Bakkan) |
| **00-031** | Sunset Harbour Developments Ltd./Approval 00073615-00 (John Sanders) |
| **00-032** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Jane Nagy) |
| **00-033** | Genesis Exploration Ltd./ Application for Approval |
| **00-035** | Bremont, Marc and Roch/Application for Approval |
| **00-036** | Sunset Harbour Developments Ltd./Approval 00073615-00 (Roberta McLaughlin, Gerald McLaughlin, Brandon McLaughlin and Jennifer Binnendyke) |
| **00-037** | Allan Pukanski/Approval 00083208-00-00 (Ken McEachren) |
| **00-039** | Pigs R Us Inc./Licence Nos. 00082554-00-00 and 000825613-00-00 |
| **00-042** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Steve and Wendy Mazure) |
| **00-043** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Maxine Dubuc) |
| **00-044** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Terry Fisher) |
| **00-045** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Barry and Lana Love) |

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| **00-046** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Carl Anderson, Y7 Enterprises Ltd.) |
| **00-047** | Henk Siderius and Siderius Dairy Ltd./Approval No. 00082375-00-00 |
| **00-048** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Henry Hays) |
| **00-049** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Ina Fisher) |
| **00-050** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Rae Fisher) |
| **00-051** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Jack Potter) |
| **00-052** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Florence Van Koughnett) |
| **00-053** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Marjorie Korth) |
| **00-054** | Don and Marjorie Bower/Application for Approval |
| **00-055** | Ranger Oil Ltd./Approval No. 00082533-00-00 (Don Kadutski) |
| **00-056** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Joe and Pearl Bebee) |
| **00-057** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Greg and Jolie Schachtschneider) |
| **00-059** | Westridge Water Supply Ltd./Preliminary Certificate 00083164-00-002 |
| **00-060** | Crestar Energy/Approval No. 00077822-00-00/ (Town of Eckville) |
| **00-061** | Taiwan Sugar Corporation/Approval No. 00081681-00-00 (Daphne and Darren Fisher) |
| **00-068** | Spruce Valley Ranch Ltd./Preliminary Certificate 00079765-00-00 (Rob and Christine Lederer) |
| **00-069** | Spruce Valley Ranch Ltd./Preliminary Certificate 00079765-00-00 (Pat and Rita Chant) |
| **00-70** | Elgar Newsham/Approval 00141557-00-00 |

**00-76** Village of Standard/*Water Act* Approval No. 00082525-00-00 (Perry, June and Marie Ellis)

## 3) Environmental Protection Orders (EPO)

**00-003** Legal Oil and Gas Ltd. and Charles W Forster/EPO No. 2000-01

**00-012** Winterburn Oil and Gas Ltd. & Provost Petroleum Ltd./ EPO No. 2000-03 (Vincent Murphy and Ted Brownless)

**00-066** Fas Gas Oil Ltd. and Fas Gas Realty Ltd./EPO No. 2000-9

**00-067** McColl-Frontenac Inc./EPO No. 2000-08

## 4) *EPEA* Enforcement Orders

**00-058** Alan and Mary EllenYoung/Enforcement Order No. 2000-WA-01

## 5) *Water Act* Enforcement Orders

**00-065** Neil and Bertha Martin/Enforcement Order No. 2000-WA-02/ (Neil and Bertha Martin)

**00-071** Chet Gilmore/Enforcement Order No. 2000-WA-05

**00-072** Gary and Cathy Fitzgerald/Enforcement Order No. 2000-WA-04

## 6) Reclamation Certificates

**00-062** Canadian Natural Resources Limited/Reclamation Certificate No. 38902 (William S. Fedoruk)

**00-063** Danoil Energy Ltd. and Envirsoil Land Management Ltd./Reclamation Certificate No. 39819 (Wayne Watson)

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## 7) Administrative Penalties

**00-019** ABL Ventures Ltd./Administrative Penalty 00/07-BOW-AP

## 8) Out of Board's Jurisdiction

**00-007** Blackrock - Hilda Lake Heavy Oil Plant (Sally Ann Ulfsten)

*E.A.B.*